

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW MEXICO  
3 UNITED STATES OF AMERICA,  
4 Plaintiff,  
5 vs. NO: CR-15-4268 JB  
6 ANGEL DELEON, et al.,  
7 Defendants.

8  
9 Transcript of excerpt of testimony of  
10 BENJAMIN CLARK  
11 May 4, 2018  
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1 THE COURT: All right. I think we've got  
2 all the defendants, and we've got an attorney for  
3 each one of the defendants. How is everybody doing?  
4 Everybody doing okay?

5 MS. HARBOUR-VALDEZ: Halfway point.

6 THE COURT: This is about the time you  
7 wish you had gone into coaching or ministry or  
8 something. But I admire you. You know, not many  
9 people in our profession do what you're doing, and I  
10 have a lot of appreciation, admiration for you. I  
11 know you're working some very late nights. I've  
12 been thinking about you and just hoping everybody is  
13 all right. Mr. Castle, especially you. You're  
14 going through some tough times.

15 Are you doing all right back there, Mr.  
16 Davidson?

17 MR. DAVIDSON: Yes, Your Honor.

18 THE COURT: Feeling all right, Mr.  
19 Blackburn?

20 MR. BLACKBURN: Fine.

21 THE COURT: Everybody doing okay?

22 MR. CASTLE: We are doing some coaching  
23 some clients, maybe a witness or two.

24 THE COURT: Ms. Harbour-Valdez sent an  
25 email to me, a script. It looks like everybody is

1 on the same page, the proverbial same page, so I'll  
2 take a look at it. Ms. Harbour-Valdez, in the  
3 future, if you wouldn't mind just every morning  
4 shooting me one of these, and you can just leave off  
5 the historical and just give me the current.

6 It looked to me like, looking at the  
7 chart, Mr. Sindel, you prevailed and your colleagues  
8 are going to go with somebody beside Mr. Jaramillo  
9 this morning; is that correct?

10 MR. SINDEL: I appreciate that. Thank  
11 you.

12 THE COURT: I will try to give you  
13 rulings. I worked last night and this morning on  
14 getting a chart to you with the 15 James statements  
15 on the Jaramillo. So as soon as I get that  
16 finalized today -- I hope it's this morning --  
17 you'll have that in your hands. I'm aware that  
18 there has been a motion filed by -- is it by Troup?

19 MS. HARBOUR-VALDEZ: Yes, Your Honor.

20 THE COURT: So I'm working on that this  
21 morning. So that's what I'll be doing while we're  
22 doing it.

23 Do we have all the jurors here?

24 THE CLERK: Yes, Judge.

25 THE COURT: We had one that was a little

1 slow. Why don't you go ahead and line them up.

2 MR. SHATTUCK: Your Honor, I had one  
3 issue. This morning I believe the Government is  
4 going to call Benjamin Clark first. And in a  
5 statement that Benjamin Clark gave to the  
6 Government, he indicated that Allen Patterson -- he  
7 heard from Eugene Martinez that Allen Patterson was  
8 involved in the Garza killing. He heard it from  
9 Eugene Martinez, and he says he also heard it from  
10 Edward Troup, but Edward Troup wasn't even in the  
11 same cell block. It's hearsay under 801. Mr.  
12 Martinez wasn't asked about the issue on the stand,  
13 to give us an opportunity to cross-examine him on  
14 it, and I'm going to object to him --

15 MR. BECK: Hold on one second.

16 THE COURT: Hold on just a second. We'll  
17 come get you.

18 MR. SHATTUCK: And I'm going to object.  
19 It's hearsay on hearsay.

20 THE COURT: Okay. Are you going to try to  
21 get that statement in?

22 MR. BECK: I think he's right. I don't  
23 think we can get it.

24 THE COURT: Are you okay with that, Mr.  
25 Shattuck?

1 MR. SHATTUCK: Yes.

2 THE COURT: Do you have anything,  
3 Mr. Beck?

4 MR. BECK: You brought up the two points I  
5 had, the motion in limine and the James statement.

6 THE COURT: So I'll try to get the chart  
7 to you pretty quickly, and then I don't know how  
8 long it's going to take me on Troup's, but I'm  
9 working on it this morning.

10 MS. HARBOUR-VALDEZ: Thank you, Your  
11 Honor.

12 THE COURT: All right. If you'll just  
13 stand there, we're going to bring the jury in.

14 Did the defendants have anything else to  
15 discuss?

16 MR. SHATTUCK: I need to talk to Mr. Beck.

17 THE COURT: All rise.

18 (The jury entered the courtroom.)

19 THE COURT: Good morning, ladies and  
20 gentlemen. Did you get your donuts? I took a small  
21 sampling and everybody agreed they were the best in  
22 Las Cruces. So unless we hear otherwise, that's  
23 what Ms. Bevel will get you. She also told me that  
24 you all wanted her to do a two-pod coffee rather  
25 than a one-pod, so we're strengthening up on the

1     caffeine. I understand.

2                 Well, it's Friday. Good Friday morning to  
3     you. Thank you for all you're doing for us, and I  
4     appreciate your hard work for us.

5                 All right. Mr. Clark, if you will stand  
6     and Ms. Bevel, the courtroom deputy, will swear you  
7     in, if you'll raise your right hand to the best of  
8     your ability there.

9                         BENJAMIN CLARK,  
10            after having been first duly sworn under oath,  
11            was questioned, and testified as follows:

12                   THE CLERK: Please be seated. State your  
13           name and spell your last name for the record.

14                   THE WITNESS: Benjamin Clark, C-L-A-R-K.

15                   THE COURT: Sit right there, and you might  
16           pull the microphone up close to your mouth. Thank  
17           you, Mr. Clark.

18                   Mr. Beck.

19                   MR. BECK: Thank you, Your Honor.

20                                 DIRECT EXAMINATION

21     BY MR. BECK:

22           Q. Good morning, Mr. Clark.

23           A. How you doing, Mr. Beck?

24           Q. Fine, Mr. Clark. Are you now -- we had  
25     some problems with the computer yesterday, so it's

1 working now. Are you now or have you ever been a  
2 member of the Sindicato de Nuevo Mexico prison gang?

3 A. Yes, I have. Yes, I am.

4 Q. When were you brought into the SNM?

5 A. '97, '98.

6 Q. Where were you?

7 A. I was in Southern New Mexico Correctional  
8 Facility.

9 Q. And who brought you into the gang?

10 A. Ruben Hinojos; James, Night Owl; and Flaco  
11 from Espanola.

12 Q. How were you recruited to join the SNM?

13 A. I was looked at for a while first, see if  
14 I was worthy of becoming a member. And once the SNM  
15 saw that I was worthy.

16 Q. In your opinion, how did they see you were  
17 worthy? What did you do, do you think?

18 A. Well, I was doing a lot of bad stuff, you  
19 know. I was fighting a lot, and I had already  
20 stabbed somebody. I had already broke some guy's  
21 neck in Texas, you know. I was a bad guy, you know.

22 Q. And those assaults and the stabbing and  
23 breaking the neck -- did that all happen in prison?

24 A. That all happened in prison, yes.

25 Q. Before you joined the SNM -- well, let me



1 ask you this. Where were you when you joined the  
2 SNM prison gang?

3 A. I was in Southern New Mexico Correctional  
4 Facility when I actually joined. I was being looked  
5 at from somebody from out of state in Arizona, in  
6 Florence, by another guy, Julian Martinez. And he  
7 was the one pushing for me to become SNM. There was  
8 other people that wanted me to become SNM, as well.  
9 They thought I was a down youngster, you know.

10 Q. And what did you know about the SNM at the  
11 time?

12 A. I knew they were killers, they ran the  
13 prison, they ran the drugs. They ran everything.

14 Q. Before you joined the SNM prison gang,  
15 were you a member of a gang on the streets?

16 A. Yes, I was South Side Royal Knights from  
17 Las Cruces.

18 Q. And when did you join that gang?

19 A. 1993. '92, '93. My family has always  
20 been from that gang, you know, so it was just an  
21 easy step.

22 Q. Have you ever heard of earning your bones  
23 or earning your huesos?

24 A. Yes.

25 Q. What does that mean?

1           A.     That means stabbing people or killing  
2 people. You got to draw blood. It's a big deal,  
3 you know. It's not something -- it's not something  
4 that -- it's not like beating somebody up, you know.  
5 You have to hurt somebody real bad. You've got to  
6 try to kill them. That's earning your bones.

7           Q.     And is that a requirement to become sort  
8 of a fully respected member of the SNM?

9           A.     You have to do that to become a fully  
10 respected SNM member. Otherwise, you're still a  
11 prospect.

12          Q.     What did you do to earn your bones?

13          A.     I stabbed Junior, Leroy Torrez. He was  
14 one of the leaders of the SNM at the time.

15          Q.     Where did that take place?

16          A.     In Santa Fe, South facility.

17          Q.     And who ordered that hit?

18          A.     It came from the top, Angel, Felipe  
19 Cordova, Marty Barros, Gerald Archuleta, Rupert  
20 Zamora. They sent word to the South from the North  
21 facility.

22          Q.     Is that -- you said Angel. Is that Angel  
23 Munoz?

24          A.     Yes, Angel Munoz.

25          Q.     And what was his position in the gang at

1 the time that he called it?

2 A. He was Number 1.

3 Q. What are some of the rules in the SNM Gang  
4 that you know of?

5 A. Well, I'm breaking the biggest rule.

6 Q. Which is?

7 A. Don't rat.

8 Q. You talked about earning your bones.  
9 What's that rule?

10 A. That's -- okay. So if the SNM gives me a  
11 mission, and they say, "Look, I want this guy dead,"  
12 if I don't do it, I'm breaking the rules; they're  
13 going to kill me.

14 Q. Do you -- within the SNM, do you have a  
15 way to refer to that, refer to what happens if you  
16 don't go through with that? Or if a member PCs,  
17 what do you call that?

18 A. I don't understand.

19 Q. Sure. What does PC mean?

20 A. Protective custody. It means you left,  
21 you left, you asked the cops to help you be safe, to  
22 get away from where you're at. They have a  
23 different facility for that.

24 Q. Have you ever heard the term "dropping a  
25 flag"?

1 A. Yeah, dropping a flag, yes.

2 Q. What does that mean?

3 A. It means you drop the flag, it means you  
4 didn't do what you were supposed to, you bowed down,  
5 you know. Okay, so let's say I'm by myself, and  
6 there's four or five guys that are my enemies, and  
7 they come hit me up, and they're, "You're SNM."

8 And I'm, like, "No, man, I ain't SNM."  
9 You know, I'm dropping the flag. I'm dropping the  
10 bandera, you know. I'm not representing what I'm  
11 supposed to represent. And by doing that, I'm  
12 giving myself a death sentence with my friends,  
13 because I'm expected to be something, to do  
14 something, to be somebody, to do something; you  
15 know, I'm expected to get killed by my enemies, if I  
16 have to get killed by my enemies. It's a big deal  
17 to drop the flag.

18 Q. So is it a rule in the SNM that you  
19 represent SNM no matter what?

20 A. Yes.

21 Q. As a member of the SNM where does it rank  
22 in a list of priorities?

23 A. That's your number one priority. That's  
24 your everything. Comes before family, comes before  
25 friends, it's your life.

1 Q. Does the SNM have any symbols or tattoos  
2 associated with it?

3 A. Yes. It's the New Mexico symbol with the  
4 S inside of it. A few of us started getting the sun  
5 god.

6 Q. What does the sun god represent?

7 A. It's the Mayan calendar. It's the sun  
8 god. It just represents the sun, like the Zia, and  
9 then the tongue is supposed to be a dagger. And in  
10 the Mayan culture, that dagger is used to pierce  
11 blood, and the blood is supposed to keep the world  
12 moving around. So for me, I had pierced blood. I  
13 had earned my bones, and for me, that's what that  
14 symbol represented. Then there was a couple other  
15 guys that -- we felt the same way.

16 Q. Who were some of those guys who felt the  
17 same way and got the tattoo?

18 A. Jesse Trujillo; Edward Troup has one;  
19 Javier Alonso. Let me see. Isaac Saavedra.

20 Q. And are all those SNM members?

21 A. Yes, those are all my brothers.

22 Q. And you said Edward Troup. Do you see  
23 Edward Troup in the courtroom?

24 A. Yes, he's sitting over there next to the  
25 lady in red with glasses on.

1 MR. BECK: Let the record reflect  
2 identification of defendant Edward Troup.

3 THE COURT: The record will so reflect.

4 BY MR. BECK:

5 Q. I'm going to show you a couple of photos  
6 here, Mr. Clark. I think they're in evidence. I'm  
7 going to start with 297. Is that a picture of you  
8 taken when you were arrested in this case in  
9 December of 2015?

10 A. Yes, sir.

11 Q. I'm going to show you Exhibit 299, which  
12 is not in evidence, so one moment.

13 MR. BECK: Your Honor, the United States  
14 moves to admit Government's Exhibit 299 without  
15 objection.

16 THE COURT: Any objection from the  
17 defendants? Not seeing or hearing any, Government's  
18 Exhibit 299 will be admitted into evidence.

19 (Government Exhibit 299 admitted.)

20 BY MR. BECK:

21 Q. I'm going to show you what's now been  
22 admitted as Government's Exhibit 299, Mr. Clark.  
23 What's in this photograph?

24 A. That's the Mayan sun god tattoos on my  
25 arm.

1 Q. So this is your arm, the tattoo you were  
2 just showing the members of the jury; right?

3 A. Yes, sir.

4 Q. And is this, what I've just drawn an arrow  
5 to, is that the dagger tongue you were referring to?

6 A. Yes, sir.

7 MR. BECK: May I have a moment, Your  
8 Honor?

9 THE COURT: You may.

10 MR. BECK: Your Honor, the United States  
11 moves to admit Government's Exhibit 190, I think  
12 without objection.

13 THE COURT: Any objection? Not hearing or  
14 seeing any objection, Government's Exhibit 190 will  
15 be admitted into evidence.

16 (Government Exhibit 190 admitted.)

17 BY MR. BECK:

18 Q. I'm going to show you Government's Exhibit  
19 185, Mr. Clark. Do you recognize that as Mr. Troup,  
20 whom you just pointed out?

21 A. Yes, sir.

22 Q. I'm going to show you Government's Exhibit  
23 190 now. Let me ask you, we saw a photo of your --  
24 the tattoo on your arm. When you were arrested on  
25 December 3rd of 2015, did the agents and officers

1 who arrested you take pictures of all your tattoos?

2 A. Yes, sir.

3 Q. Did they do that with all the defendants  
4 that they arrested at that point?

5 A. I believe so.

6 Q. Do you recognize what's in Exhibit 190?

7 A. That's a tattoo on Edward Troup's wrist.

8 Q. Is that the sun god with the dagger tongue  
9 like yours?

10 A. Yes, sir.

11 Q. I want to talk to you a little bit about  
12 the SNM's drug trafficking activities. Did the SNM  
13 traffic in drugs in prison and on the streets?

14 A. Yes, sir.

15 Q. And have you participated in drug  
16 trafficking as a member of the SNM?

17 A. Yes, sir.

18 Q. What is a hitter?

19 A. That's someone that hits drugs. You know,  
20 a hit -- you get a hit, catch a lick. You know what  
21 I mean? The hitters are the ones that have access  
22 to drugs on the streets that people help them get  
23 drugs into the facilities. That's a hitter.

24 Q. While you were a member of the SNM in  
25 prison, were you considered a hitter?



1 A. Yes, I was.

2 Q. Did you bring drugs into facilities where  
3 you were incarcerated?

4 A. Yes, I did.

5 Q. How did you do that?

6 A. Different ways. I had COs bring me drugs  
7 at times. Paid officers. The latest way was mostly  
8 through the mail. We would traffic in Suboxones.  
9 It's a drug that is supposed to help you get off of  
10 heroin or opiates, but it gets you high, and we  
11 would paste them on envelopes or on legal papers.  
12 We would make double copies, cut out squares, glue  
13 the Suboxones onto the paper, and then use the copy  
14 of the same paper, a little square, and glue that on  
15 top of that, and we would get in 60 Suboxones at a  
16 time. One Suboxone would go for \$100 in prison, at  
17 least \$100. Now it's about \$150, and you could buy  
18 them on the streets for \$5 each.

19 Q. How did you and other inmates exchange  
20 money? Did they hand you cash? Was there some way  
21 you did it on the outside? How did that happen?

22 A. We had our people on the outside send  
23 money. There's different ways, you know. You could  
24 have them send money to your books. Or the way that  
25 I would do it was, I would have them Western Union

1 money to my family, or we had green dot cards from  
2 Walmart, and we would have people get green dot  
3 cards, and they would send their money to our green  
4 dot card, and it was a little cleaner transaction  
5 because there was nobody listening or watching with  
6 that transaction.

7 Q. As an SNM member, if you brought drugs  
8 into the facility where there were other SNM  
9 members, what were you supposed to do with the  
10 drugs?

11 A. Well, supposed to give some back to the  
12 brothers. You know, you give an issue back to the  
13 brothers, and you make your money. You know? And  
14 with that money, you take care of your brothers that  
15 are around you. You know what I mean? We're all  
16 drug addicts, so everybody wants to get high, so you  
17 give about a third back to the ride.

18 Q. Do you know an SNM member named Arturo  
19 Garcia?

20 A. Yes. Yes, I do.

21 Q. Does he go by any other names in the SNM?

22 A. Shotgun. Shotgun, Shorty, Chopper number  
23 2, Governor.

24 Q. What was his position in the SNM?

25 A. He was top dog.

1 Q. Have you ever heard of the tabla?

2 A. Yes, I have.

3 Q. Did Mr. Arturo Garcia have a position on  
4 the tabla?

5 A. Yes, he did.

6 Q. Have you ever brought in drugs into the  
7 facility with Arturo Garcia?

8 A. Yes, I have.

9 Q. Tell the jury about that.

10 A. Back in 2004, we brought in a quarter  
11 ounce of cocaine. The CO ended up doing the  
12 cocaine, and so we stabbed -- we had the guy stabbed  
13 that was supposed to bring in the drugs, because he  
14 didn't bring in our dope.

15 Q. And who was that guy that you got stabbed?

16 A. His name was Bandit. He was a Sureno.

17 Q. And who ordered that stabbing?

18 A. Me and Arturo.

19 Q. And who stabbed Bandit?

20 A. Spider.

21 Q. Does Spider go by the name David Calbert?

22 A. Yes, he does.

23 Q. Was he an SNM member?

24 A. Yes, he was.

25 Q. And where was he stabbed? At what

1 facility was he stabbed?

2 A. At the North facility, lockdown facility.  
3 He got out of his cuffs -- well, he jumped over his  
4 cuffs. He had a shank.

5 Q. When you say, "He jumped out of his cuffs  
6 and had a shank," who was that?

7 A. Spider. He had a shank looped around his  
8 neck, and he squatted down, jumped over his  
9 handcuffs, pulled out the shank, and stabbed Bandit  
10 in the neck pretty bad, and then he stabbed him in  
11 the stomach, and he got him pretty good. He almost  
12 killed him.

13 Q. Does the SNM engage in, to your knowledge,  
14 extorting inmates for money?

15 A. We have.

16 Q. All right. Do you know an inmate named  
17 Sammy Chavez?

18 A. Yes, I do.

19 Q. Tell us about -- did the SNM extort money  
20 out of Sammy Chavez?

21 A. Arturo Garcia did.

22 Q. Tell us about that.

23 A. Well, it's a long story. It's hard to  
24 explain because --

25 Q. How did it start for you, when you found

1 out that Arturo Garcia was extorting money out of  
2 Sammy Chavez?

3 A. Well, we were having a power struggle  
4 within the SNM after I stabbed Junior. Chaparro was  
5 trying to take over the SNM. He was one of the  
6 tabla members at the time. And Gerald Archuleta,  
7 Styx, was on the other side with Angel Munoz and  
8 Marty Barros and Felipe Cordova. So when I stabbed  
9 Junior, who was a high-ranking -- he was on the  
10 tabla -- he was a high-ranking SNMer -- it started a  
11 war. Chaparro sent Miguel to Hobbs, to the facility  
12 I was at, and had Miguel order a hit on me. So  
13 Sammy Chavez tried to stab me. He didn't succeed.  
14 He showed me the knife and he took off running.

15 Q. What happened after Sammy Chavez tried to  
16 stab you?

17 A. He ended up picking up nine years. He  
18 threw the shank under someone's cell door. The guy  
19 gave it back to the CO and testified against Sammy  
20 for throwing the shank under his door. We ended up  
21 at the North facility and I was on a different crew.  
22 You know, I'm with different guys in the SNM. So  
23 even though he tried to stab me, he didn't do  
24 nothing. I was still good with my brothers. I was  
25 putting in work, you know, I was stabbing people, I

1 was having people killed. And I talked to Arturo  
2 Garcia and Gerald Archuleta about Sammy Chavez, and  
3 I told them I wanted to kill him.

4 Q. And what did they say when you told them  
5 you wanted to kill Sammy Chavez?

6 A. They told me not to kill him.

7 MR. GRANBERG: Objection, hearsay.

8 THE COURT: Is he talking about Arturo  
9 Garcia?

10 THE WITNESS: Yes, I'm talking about  
11 Arturo Garcia.

12 BY MR. BECK:

13 Q. So what did Arturo Garcia say when you  
14 told him you wanted to kill Sammy Chavez?

15 A. He told me not to kill him; that Sammy was  
16 sending him money. He told me to do it for him.

17 Q. So how much money, if you know, was Sammy  
18 Chavez sending Arturo Garcia so that you would not  
19 kill him?

20 A. He was probably sending about 50 bucks a  
21 month. His grandma was sending it. He gave a gold  
22 necklace to Samuel Silva. They were my friends.  
23 They were my road dogs. And he used them to come  
24 talk to me, to stop me from having him killed.

25 Q. At some point, if you know, did that

1 payment stop?

2 A. Yes, my understanding is when Sammy got  
3 out --

4 MR. BLACKBURN: Objection, Your Honor. He  
5 doesn't have personal knowledge.

6 Q. Sure. Did Arturo Garcia -- let me ask a  
7 different question. Did Arturo Garcia tell you that  
8 those payments stopped?

9 A. No.

10 Q. Okay.

11 A. James Garcia told me.

12 Q. Okay. That answers my question. Is James  
13 Garcia an SNM member?

14 A. Yes. That's Daffy.

15 MR. BECK: May I have a moment, Your  
16 Honor? I seem to have lost one thing.

17 Q. I'm going to now Government's Exhibit 826.  
18 Mr. Clark, do you recognize this as an aerial  
19 depiction of the Penitentiary of New Mexico in  
20 Santa Fe?

21 A. Yes. Yes, sir.

22 Q. And so when you talked about getting to  
23 the facility with Sammy Chavez and Arturo Garcia,  
24 which facility was that?

25 A. We were at the North facility.

1 Q. And is that depicted on Government's  
2 Exhibit 826 at the top where it's labeled the North  
3 facility?

4 A. Yes, sir.

5 Q. And I'll show you Government's Exhibit  
6 828. Do you recognize this as a close-up of the PNM  
7 North facility from the aerial view?

8 A. Yes, sir.

9 Q. And what level inmates are housed at the  
10 PNM North facility here?

11 A. Level 6, maximum security.

12 Q. I'm going to show you Government's Exhibit  
13 291, which is a penitentiary pack.

14 MR. BECK: Your Honor, may we approach?

15 THE COURT: You may.

16 (The following proceedings were held at  
17 the bench.)

18 MR. BECK: Your Honor, it was brought to  
19 my attention by Mr. Blackburn -- I think it was  
20 Mr. Blackburn -- a couple things on Ben Clark's J&S  
21 for the charge for which I believe he's still  
22 incarcerated, in '97, his defense attorney was Jeff  
23 Lahann. I didn't realize that until today. I have  
24 concerns. It appears to me that Jeff Lahann is not  
25 cross-examining him.



1 MR. SHATTUCK: We're not going to  
2 cross-examine him.

3 MR. BECK: I didn't realize it, or we  
4 would have taken care of it earlier. At least for  
5 the present time, he's on the stand, we're where we  
6 are, and I don't want to show this to the jury  
7 because I don't want the jury to see Jeff Lahann's  
8 name on the J&S for the present time.

9 MR. SHATTUCK: We could redact it.

10 THE COURT: Okay.

11 MR. BECK: I'm happy to, and I will. But  
12 when I told her to put it on the screen, I realized  
13 that wasn't going to work, so I'm going to ask  
14 him --

15 THE COURT: Can you just use the Elmo?  
16 Got a blackout -- Ms. Bevel, do you have one of  
17 those blackout pens, real heavy-duty Magic Marker?  
18 Why don't you switch over to the Elmo?

19 MR. BECK: Sure.

20 THE COURT: And you're independently  
21 making a call here; if you need to cross, you'll  
22 cross?

23 MR. SHATTUCK: If we need to cross at all,  
24 I will do it.

25 THE COURT: Mr. Lahann is purposely not

1 here. We may have to sort this out later, but right  
2 now keep moving. Okay. Does that work?

3 MR. BECK: That works.

4 THE COURT: All right. Thank you.

5 MR. BLACKBURN: That was an issue that  
6 came up. We talked to Mr. Beck this morning to say  
7 that we thought he needed to redact that. That's  
8 how it came up.

9 THE COURT: I saw y'all over there.

10 MR. BLACKBURN: That's when it happened.

11 MR. SHATTUCK: And we're not going to mess  
12 with it and we did a lot of talk on it before and we  
13 don't think there is any problem.

14 (The following proceedings were held in  
15 open court.)

16 THE COURT: All right, Mr. Beck.

17 BY MR. BECK:

18 Q. Mr. Clark, I'm showing you Government's  
19 Exhibit 291, which is your pen pack from the New  
20 Mexico Corrections Department. Have you ever seen  
21 this document before?

22 A. I don't think I have.

23 Q. And that's your name and your New Mexico  
24 Corrections Department inmate number on the front of  
25 that document?

1 A. Yes, sir -- no, I haven't seen this.

2 Q. I'm going to turn to page Bates 8706 of  
3 this document. Have you seen this document before?

4 A. Yes, I have.

5 Q. Is this a judgment, sentence, and  
6 commitment for a guilty plea by you?

7 A. Yes, it is.

8 Q. And after your guilty plea, were you  
9 convicted of multiple counts of armed robbery?

10 A. Yes, I was.

11 Q. And was that in 1997 that you were  
12 convicted?

13 A. Yes, it was 1997.

14 Q. Were you sentenced for Count 1 to a term  
15 of imprisonment of nine years?

16 A. Yes, I was.

17 Q. And to Count 3 for a term of imprisonment  
18 nine years?

19 A. Yes, I was.

20 Q. Were those run consecutively for 18 years  
21 total, for cause number CR 96-597?

22 A. Yes, it was.

23 Q. And then were you also, for Count 1 in  
24 cause number 96147, sentenced to nine years?

25 A. Yes, I was.

1 Q. Is that to run consecutive?

2 A. Yes. Yes, it was.

3 Q. So is that a total of 27 years'  
4 imprisonment?

5 A. Yes, sir.

6 Q. And is that the total term of imprisonment  
7 that you were sentenced to in 1997 for this guilty  
8 plea?

9 A. Yes, it was, sir.

10 Q. Is that 27-year sentence the sentence that  
11 you were serving when you were arrested in this case  
12 in December of 2015?

13 A. Yes, it was.

14 Q. I want to talk to you about some other  
15 crimes for the SNM that you've been involved in. In  
16 2005 were you involved in an assault of John Bruner?

17 A. Yes, I was.

18 Q. And who called that assault?

19 A. Arturo Garcia and Gerald Archuleta.

20 Q. Is Gerald Archuleta also known as Styx?

21 A. Yes, he is, sir.

22 Q. Why was there a hit called on John Bruner?

23 A. In 1999 a guy by the name of John Price --  
24 and I don't remember the guy's name -- but they  
25 killed one of our brothers. And one of them was

1 from Utah. John Bruner was from Utah. They were  
2 from the same click. They were Aryan -- Aryan  
3 Nation or something. Supreme white power. And we  
4 were at war with these guys.

5 We had the opportunity to get John Bruner.  
6 He happened to be in our pod. I sent word to Arturo  
7 Garcia and Gerald Archuleta. They sent me letters  
8 back telling me to hook him up with Little Mama,  
9 which was a term that we used to have someone  
10 stabbed.

11 So I made a shank. I gave it to Mauricio  
12 Varela. He stabbed John Bruner in the back two or  
13 three times. He ran upstairs and gave me the shank.  
14 I stuck it inside the wall. I had made a hole in my  
15 wall, inside the vent, and I threw it in the vent  
16 and the shank disappeared.

17 Q. I'm going to show you Government's Exhibit  
18 827. Do you recognize this as the South facility at  
19 the Penitentiary of New Mexico in Santa Fe?

20 A. Yes, sir, I do.

21 Q. And in which pod were you in 2005 when the  
22 hit on John Bruner happened?

23 A. We were in U pod.

24 Q. Do you know where that is in Government's  
25 Exhibit 827?

1 A. Yes, I do.

2 Q. You can touch your screen and circle it on  
3 there.

4 A. Okay. So this is 3B. And it's in that  
5 building right there.

6 Q. You said that John Bruner and John Price  
7 killed an SNM member. Was that SNM member --

8 A. John Bruner didn't. Paul Payne and John  
9 Price. Paul Payne was from Utah. They were part of  
10 an Aryan organization, and John Bruner was from  
11 Utah. They were out-of-state compacts, and they  
12 started a Supreme White Power in New Mexico, which  
13 was another Aryan offshoot of whatever Aryan gang  
14 that they were a part of. And they started that in  
15 New Mexico. We were at war with these guys pretty  
16 badly. They stabbed a few of us, we stabbed a few  
17 of them, and then they killed our brother,  
18 Presidente, that had been in Hobbs in 1999.

19 Q. So if I understand, then, it wasn't John  
20 Bruner who participated in killing Presidente?

21 A. No, but he was part of the organization  
22 that killed our brother.

23 Q. So as an SNM member, were you expected  
24 to --

25 A. We were expected to kill him.

1 Q. Because they were a rival gang member; is  
2 that right?

3 A. Yes, because -- and they killed our  
4 brother.

5 Q. You said that you sent a letter to Arturo  
6 Garcia to let him know Mr. Bruner was there; is that  
7 right?

8 A. Yes, I did.

9 Q. And I think you talked a little bit about  
10 this, but to your knowledge, does the Corrections  
11 Department scan and review SNM members' mail  
12 outgoing and in going at facilities?

13 A. I believe they do.

14 Q. So how did you communicate to Arturo  
15 Garcia that Bruner was there and how did he  
16 communicate that he should be taken out?

17 A. Well, like I said, I wrote him a letter  
18 and I told him, "Yeah, the homie John Bruner, he's  
19 from Utah, Paul Payne told me. Do you want me to  
20 holler at him, something like that? You know what I  
21 mean?"

22 It's different language, you know, for  
23 different things. But I let him know that John  
24 Bruner was with us. And he sent me a letter back.  
25 He sent me, like, two or three letters back because

1 we were taking our time with it, and telling me,  
2 "Hey, the first one, hook the homie up with Little  
3 Mama." The last one was something like, "Why hasn't  
4 Little Mama talked to homie?"

5 Q. What does "hook up with Little Mama" mean?

6 A. That means to stab somebody. That means  
7 to hit them. That means to kill them. Little Mama  
8 was our term for our shanks. We'd make a shank and  
9 we'd name it Little Mama, and when you hook them up  
10 with Little Mama, you're hooking him up with Little  
11 Mama, putting Little Mama inside of him.

12 Q. I want to talk to you about just one other  
13 crime that you participated in for the SNM in 1999.  
14 Did you -- were you involved in a crime with an  
15 inmate known as Steven Martinez?

16 A. Yes, I was.

17 Q. What happened?

18 A. He was claiming to have ordered the hit on  
19 RB, Ronnie Baca, who was another guy that got killed  
20 by the SNM. And he had PC'd at the Main. He was a  
21 known confidential informant. Julian Romero was  
22 running the facility at the time, and he told me to  
23 PC him, beat him up, and PC him. It got out of hand  
24 and we almost killed him.

25 Q. So was one of the reasons Steven Martinez



1 was targeted by the SNM because he was claiming that  
2 he had called a murder or a hit that he really  
3 hadn't?

4 A. Yes.

5 Q. We talked about your arrest in 2015. Were  
6 you arrested in connection with this case and your  
7 participation in the murder of Fred Sanchez?

8 A. Yes, I was.

9 Q. Did you agree to cooperate -- when did you  
10 agree to cooperate with the federal government in  
11 this case?

12 A. On December 3, the same date.

13 Q. Why did you agree to cooperate?

14 A. I was already done with the SNM. I walked  
15 away the year before. I tried to go to the RPP  
16 Program, which is a return to prison population, and  
17 it's renouncing your ties to being a part of the  
18 gang.

19 Q. What's required to go into the RPP  
20 Program?

21 A. I have to be debriefed on my involvement  
22 in the SNM.

23 Q. Before you were -- before you decided  
24 to -- sorry. What year was this that you tried to  
25 get into RPP?

1 A. I believe in 2014.

2 Q. And what happens to an SNM member when  
3 they go -- try to go into the RPP and are debriefed  
4 by corrections officers?

5 A. I gave myself a death sentence.

6 Q. Were you accepted into the RPP Program?

7 A. No, I wasn't.

8 Q. So let me ask you this question. Before  
9 2014, approximately how many assaults and stabbings  
10 had you participated in for the SNM?

11 A. I can't tell you. There's just too many.

12 Q. Before 2014 at some point were you a  
13 high-ranking member in the SNM?

14 A. I was a member of the tabla at one point.

15 Q. Did you debrief in 2014 with the  
16 corrections officers trying to get into RPP?

17 A. Somewhat.

18 Q. Why do you think you weren't accepted to  
19 RPP?

20 A. They thought I was going to go into their  
21 program and stab other SNM members.

22 Q. Since cooperating with the federal  
23 government in this case, were you signed up as a  
24 confidential human source?

25 A. Yes, I was.

1 Q. And were you paid for information that you  
2 gave to the federal government about the SNM and  
3 other matters?

4 A. I was given some money.

5 Q. Was that approximately \$750?

6 A. Somewhere around there. I can't say for  
7 sure, but it sounds about right.

8 Q. Were you provided other benefits as a  
9 confidential human source in this case?

10 A. Not really. I mean --

11 Q. Let me ask this. Did you get to attend a  
12 holiday party with family members where there was  
13 pizza and drinks?

14 A. Yes. Yes, we did.

15 Q. And did you participate in philosophy  
16 classes at the Penitentiary of New Mexico?

17 A. Yes, I did.

18 Q. And were you allowed tier time with other  
19 inmates, even though you were a Level 6 inmate?

20 A. Yes, I was.

21 Q. Did these payments as a confidential human  
22 source -- let me ask, were you -- at some point was  
23 your confidential human source status revoked by the  
24 FBI?

25 A. Yes, it was.

1 Q. Why was that?

2 A. I was given a contact visit with my girl,  
3 and we kissed and touched too much, and I got booted  
4 out of the confidential human source.

5 Q. Were you allowed to -- well, were you  
6 allowed contact visits when you were cooperating?

7 A. Yes, I was.

8 Q. And were you allowed to kiss and touch  
9 your girl?

10 A. We were allowed to have one kiss before  
11 and after the visit, but --

12 Q. Did you go beyond that?

13 A. We went beyond that. We kissed and  
14 touched and petted each other for the duration of  
15 the visit.

16 Q. While you've been -- since you agreed to  
17 cooperate before testifying here today, have you  
18 done drugs while you were incarcerated?

19 A. Yes, I have.

20 Q. What drugs did you do?

21 A. I've done Suboxone, meth. I've had the  
22 opportunity to do other drugs, but I just don't get  
23 into them.

24 Q. Did you do heroin and weed when you were  
25 incarcerated in Sandoval County?

1 A. Yeah, I did. I had. But I don't smoke  
2 weed, so -- I got weed, but I don't smoke weed.

3 Q. Did you provide -- let me ask, did you  
4 provide drugs to other inmates incarcerated with  
5 you?

6 A. Well --

7 Q. I guess what I'm asking is: If you had  
8 weed and you didn't smoke weed, what did you do with  
9 it?

10 A. I gave it to the guys.

11 Q. And are those other SNM members who were  
12 cooperating with the federal government in these SNM  
13 cases?

14 A. Yes, it is.

15 Q. And did you know that -- did the federal  
16 government know that you were bringing in drugs and  
17 doing drugs?

18 A. I wasn't bringing in drugs, but I was  
19 getting drugs. And no, they didn't know, but they  
20 found out later, eventually.

21 Q. Did you have a tablet in connection with  
22 this case?

23 A. Yes, I did.

24 Q. And what was the purpose of the tablet, to  
25 your understanding?

1 A. It was for our discovery of our case.

2 Q. At some point did you tamper with and  
3 reset that tablet?

4 A. Yes, I did.

5 Q. What happened to the discovery on the  
6 tablet when you did that?

7 A. It got erased.

8 Q. And what did you do with your tablet after  
9 it was reset?

10 A. I logged on to Wi-Fi, to Walmart Wi-Fi. I  
11 accessed porn, I got on Facebook, and I got on  
12 G-mail.

13 Q. Did you know you were abusing the tablet  
14 when you did that?

15 A. Yes, I did.

16 Q. At some point did you tell Special Agent  
17 Acee that the cooperators, including yourself, had  
18 tampered with the tablets?

19 A. Yes, I did. I knew I was doing wrong and  
20 I went to Mr. Acee and I told him, "Look, we're  
21 messing up. This is what's going on. I tampered  
22 with my tablet."

23 Q. And what happened after that?

24 A. I sent Mr. Acee an email showing him the  
25 tablet was compromised and our tablets were

1 confiscated.

2 Q. Since your tablets were confiscated, have  
3 you received them back?

4 A. No, I haven't.

5 Q. Mr. Clark, I'd like to turn your attention  
6 to June of 2007. Where were you incarcerated in  
7 June of 2007?

8 A. I was in the Southern New Mexico  
9 Correctional Facility.

10 Q. Which pod were you in?

11 A. In the beginning I was in J-1 green pod,  
12 which is now 1-A.

13 Q. I'm going to show you -- I'm going to show  
14 you Exhibit 649. Do you recognize this as an aerial  
15 view of the Southern New Mexico Correctional  
16 Facility?

17 A. Yes, I do.

18 Q. Let me ask you. You talked about housing  
19 unit 1-A green pod. Where is that in Exhibit 649?

20 A. Okay. This is 1-A, and this is green pod.

21 Q. And in June of 2007, sort of the middle of  
22 June, were you housed in 1-A blue pod?

23 A. I mean blue pod. Excuse me. I was in  
24 green pod in 2014, '13, and '12. So you know, I've  
25 been in that facility a long time. So I get

1 confused with the colors.

2 Q. I'll show you Government's Exhibit 281.

3 Actually, that's fine. Do you recognize Exhibit 281  
4 as a diagram of housing unit 1-A at Southern?

5 A. Yes, I do.

6 Q. And I think you pointed before to this  
7 portion and called it green pod. Is that actually  
8 blue pod?

9 A. That's where I was housed at, yes. Sorry.

10 Q. Which cell were you housed in in June of  
11 2007?

12 A. I was on the bottom tier, right here.

13 Q. And I'm going to show you Government's  
14 Exhibit 249. Do you recognize what's depicted in  
15 Exhibit 249?

16 A. Yes, I do.

17 Q. And what is that?

18 A. That's blue pod.

19 Q. Which cell were you in in June of 2007?

20 A. This one right here.

21 Q. So you circled the bottom tier, second  
22 from the left; is that right?

23 A. Yes, sir.

24 Q. What cell number is that?

25 A. 110.



1 Q. I'm going to take you back to Exhibit 281.  
2 In June of 2007, was housing unit 1-A at Southern an  
3 SNM housing unit?

4 A. Yes, the whole 1-A was all SNM.

5 Q. At the time in the SNM -- let me ask you,  
6 are there leaders at each prison?

7 A. Yes, there is.

8 Q. And then within each prison are there  
9 leaders in each pod?

10 A. Yes, there is.

11 Q. And so you were in blue pod. Who was the  
12 leader in yellow pod or who were the leaders?

13 A. At that time it was Loco, Paul Silva.

14 Q. And then how about green pod?

15 A. It was Frankie G, Frankie Gonzalez; and  
16 Ernest Guerrero, Ern Dog.

17 Q. Are these leaders referred to by any other  
18 names within the SNM?

19 A. Yes, I just mentioned them.

20 Q. Have you ever heard the term llaveros or  
21 key holders?

22 A. Yes, they were the llaveros, yes.

23 Q. And then in blue pod, in your pod, who  
24 were the leaders or who was the leader?

25 A. I was the leader in blue pod.

1 Q. While you were the leader at Southern New  
2 Mexico Correctional Facility, did you ever -- let me  
3 ask you this. What is -- when I say paperwork, what  
4 is paperwork to you?

5 A. Okay. So when someone does what I'm  
6 doing, when they make statements to the police, it  
7 comes out on paperwork, the statement that they  
8 made. That shows that they're a rat. They violated  
9 the rules, and according to our rules, that guy has  
10 to die.

11 Q. At some point when you were at Southern  
12 New Mexico Correctional Facility in June of 2007 or  
13 around the summer of 2007, did you receive paperwork  
14 on someone you knew as Fred Dawg or Fred Sanchez?

15 A. Yes, I did.

16 Q. Who is Fred Dawg or Fred Sanchez?

17 A. He was a respected member from the SNM.  
18 He was on and off the tabla for years. He had  
19 murdered someone in the late '80s, I believe in the  
20 joint; a Texas syndicate member. He was my friend.

21 Q. How did you come to receive paperwork for  
22 Fred Sanchez?

23 A. Kyle Dwyer brought the paperwork and he  
24 gave it to me.

25 Q. Who is Kyle Dwyer?

1 A. He's an SNM member. He's also known as  
2 Loco.

3 Q. How did he give you the paperwork? What  
4 happened?

5 A. He arrived at the facility and he was  
6 trying to give the paperwork to Ruben Hernandez. I  
7 intervened. I got the paperwork and I told him,  
8 "What are you doing, giving this to these guys?  
9 You're supposed to give it to me."

10 Q. Why did you not want Ruben Hernandez to  
11 take the paperwork? Why did you want to take it?

12 A. Because I didn't believe he was solid. In  
13 fact, I knew he was weak, and I didn't want him to  
14 know about anything going on deep within the SNM.

15 Q. I want to take you back to Exhibit 249.  
16 Where was Kyle Dwyer in this photograph? Where was  
17 Kyle Dwyer when you received the paperwork from him?

18 A. Kyle Dwyer was in 101. Ruben Hernandez  
19 was in 109, and we were right here in front of his  
20 cell when he gave me the paperwork.

21 Q. Was he in orientation when he gave you the  
22 paperwork?

23 A. Yes, he was in orientation.

24 Q. What's orientation?

25 A. They stay in their cell for three days to

1 see if they get along with the guys in the pod. And  
2 after three days, they'll release them in the pod.

3 THE COURT: Mr. Beck, that 281 that you  
4 had up. I don't think that's in evidence. Does  
5 anyone object? Do you want to move it into  
6 evidence?

7 MR. BECK: I saw it on the transcript from  
8 last night as moved in with Norman Rhoades.

9 THE COURT: We only went up to 264 with  
10 Mr. Rhoades. So I don't think we had 281. Any  
11 objection to 281? Do you want to move it?

12 MR. BECK: Yes, Your Honor. The United  
13 States moves 281.

14 THE COURT: Not hearing any objection,  
15 Government's Exhibit 281 will be admitted into  
16 evidence.

17 (Government Exhibit 281 admitted  
18 previously.)

19 MR. BECK: I apologize, Your Honor. There  
20 was a lot on that list, and I thought I wrote them  
21 down last night, but...

22 BY MR. BECK:

23 Q. When you received the paperwork from Mr.  
24 Dwyer, what did he tell you about the paperwork when  
25 you grabbed it?

1 A. He told me Arturo said to take care of  
2 this.

3 Q. And who did you understand him to be  
4 referring to when he was referring to Arturo?

5 A. Chopper Number 2, Shotgun Shorty.

6 Q. Do you see Arturo Garcia in the courtroom  
7 today?

8 A. Yes, I do.

9 Q. Where is he?

10 A. He's in the back, wearing glasses and a  
11 gray suit.

12 Q. Is he close to the gallery or close to  
13 you?

14 A. He's closer to the -- he's back right over  
15 there.

16 MR. BECK: All right. Let the record  
17 reflect the identification of the defendant Arturo  
18 Garcia.

19 THE COURT: The record will so reflect.

20 BY MR. BECK:

21 Q. What did you do with the paperwork once  
22 you received it?

23 A. I read it, and I passed it to Paul Silva,  
24 Loco. I told him to read it, not to show nobody,  
25 and to show Ern Dog, and to pass it to Ern Dog and

1 Frankie G. He subsequently read it, showed  
2 everybody in his pod, and then passed the paperwork  
3 to Frankie G, who read the paperwork and showed  
4 everybody in his pod. And then they sent paperwork  
5 back to me, and I gave it back to Kyle Dwyer and  
6 told him to get rid of it.

7 Q. I'm going to show you Government's Exhibit  
8 247. Do you recognize this as 1A-B pod? We looked  
9 at the left before, but I'm going to call this the  
10 right side, 1A-B pod.

11 A. Yes.

12 Q. How did you pass the paperwork, I think  
13 you said, to Paul Silva?

14 A. Okay. Right down here there is a door  
15 that connects to the pod next door to yellow pod,  
16 and I slid it under the door to Paul Silva. I  
17 talked to him, told him, "I got paperwork on Fred  
18 Dawg here. Check it out."

19 Q. Put that back up. So you circled the  
20 bottom portion of this, and I see that there is a  
21 cage in front of it. On the top portion of  
22 Government's Exhibit 247, there is a blue door with  
23 an exit sign by it. Do you see that?

24 A. Yes, sir.

25 Q. And what does that door connect to?

1 A. Yellow pod.

2 Q. Is that door that we see on the top of  
3 Exhibit 247 identical to the door that you were  
4 trying to circle, other than it's on the top instead  
5 of the bottom?

6 A. Yes, it's the exact same thing.

7 Q. Is that a common way for members in one  
8 pod to talk to the members in the other pod?

9 A. Yes, that's typically how we did it. If  
10 we had our friend next door, we'd go talk to them at  
11 the door.

12 Q. And if you recall, was there a gap under  
13 the door that allowed you to pass paperwork or notes  
14 to each other?

15 A. Yeah, it was a pretty big gap.

16 Q. I'm going to show you Government's Exhibit  
17 281. So we're looking back at this diagram in 281.  
18 I'm going to circle the arrows on the top and left  
19 side that point to inner pod doors. Is that the  
20 door, the one on the left side, that you passed the  
21 paperwork to Paul Silva?

22 A. Yes, it is.

23 Q. And how did Paul Silva pass the paperwork  
24 to Ern Dog and Frankie G?

25 A. The exact same way I passed it to him.

1 Q. So it was your understanding that it  
2 worked its way into yellow pod there, and then  
3 worked its way over to green pod?

4 A. Yes, sir.

5 Q. Eventually, I think you said, did the  
6 paperwork return to you?

7 A. Yes, it did.

8 Q. And what did you do with it?

9 A. I gave it back to Kyle Dwyer and I told  
10 him to get rid of it.

11 Q. What happened when Paul Silva, Ern Dog,  
12 Frankie G and you saw the paperwork? What happened  
13 to Fred Dawg's status at that time?

14 A. At that time he was marked out.

15 Q. What does that mean?

16 A. It means that we put a green light on him.  
17 He was sentenced to death.

18 Q. What do you remember about the paperwork?

19 A. I remember -- I didn't really think it was  
20 that bad, you know. This guy by the name of Kiko --  
21 I don't remember his real name. His nickname was  
22 Kiko. He changed it to Frito later on, after he  
23 went back to prison. But he beat up a girl at a  
24 party pretty bad. From what the paperwork sounded,  
25 he beat her up pretty bad, he smashed her down, and



1 she was bleeding, the cops came, and they arrested  
2 Fred Sanchez. And Fred said, "Hey, man, I didn't  
3 have nothing to do with this. This youngster beat  
4 this girl up."

5 MR. GRANBERG: Objection.

6 THE COURT: Hold on. Are you trying to  
7 elicit this?

8 MR. BECK: I'm not.

9 THE COURT: Why don't you ask another  
10 question then?

11 BY MR. BECK:

12 Q. So when you looked at the -- let me ask  
13 you this. Did it appear to you to be a police  
14 report?

15 A. Yes, it was.

16 Q. And where was it from? What city in New  
17 Mexico?

18 A. Roswell, New Mexico.

19 Q. And what city is Fred Sanchez, or Fred  
20 Dawg, from, as far as you know?

21 A. Roswell, New Mexico.

22 Q. Did the paper indicate that -- I know you  
23 said you thought it wasn't really much, but did it  
24 indicate that Fred Sanchez had given statements to  
25 law enforcement?

1 A. Yes, it did.

2 Q. What's the repercussion for that in the  
3 SNM?

4 A. The same thing they're going to try to do  
5 to me. It's a death sentence.

6 Q. At some point -- let me ask you this. Was  
7 Fred Sanchez, or Fred Dawg, in housing unit 1-A at  
8 Southern with you at that time?

9 A. No, he was at the New Mexico Penitentiary  
10 South facility.

11 Q. At some point did Fred Sanchez show up at  
12 the Southern New Mexico Correctional Facility?

13 A. Yes, about two months later, a month and a  
14 half later, something like that.

15 Q. What did you think when Fred Sanchez  
16 showed up?

17 A. I thought, Oh, shit.

18 Q. Why is that?

19 A. Because we had to kill him.

20 Q. What happened when he showed up?

21 A. I talked to Jesse real quick. Jesse  
22 Trujillo was my neighbor, and I told him, "Send  
23 Ruben and Raymond Rascon." I really didn't have a  
24 lot of time to talk, because I got locked up. I had  
25 maybe five, ten seconds. I didn't really have a

1 whole lot of time.

2 Q. So you told Jesse Trujillo to send -- what  
3 did you tell Jesse Trujillo?

4 A. To send Ruben and Cheeky, Raymond Rascon.

5 Q. Is -- Ruben Hernandez?

6 A. Yes.

7 Q. Why did you tell -- what did you mean,  
8 "Send Ruben and Raymond Rascon"?

9 A. To do the hit.

10 Q. Why did you tell Jesse Trujillo to send  
11 those two?

12 A. Because I knew they wouldn't kill him.

13 Q. Why -- you said you only had ten minutes  
14 or five minutes to talk. Why is that?

15 A. Because I was getting locked up.

16 Q. What do you mean by "getting locked up"?

17 A. I was getting moved to segregation, a  
18 different housing unit.

19 Q. Why were you getting moved to segregation?

20 A. Because I was in communication with Arturo  
21 Garcia on the people that were housed at the  
22 facility in our unit. I sent him names of everybody  
23 that was housed there, people that were SNM and  
24 people that weren't SNM. The code to use Little  
25 Mama was getting too hot; the cops knew about it

1 already. So I told him to change the code to a,  
2 So-and-so is here. How is his family doing? And  
3 that would be -- you know, something to that effect.  
4 How is his family doing? And that would be the code  
5 to move on this guy if we needed to move on him.

6 Q. Have you ever heard the term "roll call"?

7 A. Yeah, roll call is just who is there, who  
8 is with you.

9 Q. Is that what you were sending to Arturo  
10 Garcia?

11 A. Yes. He asked. He asked it specifically  
12 from Frankie Gonzales, Frankie G. He sent him a  
13 letter. Frankie showed me the letter. He didn't  
14 want to send the information out because he didn't  
15 have access. I had a CO bringing me in cigarettes  
16 and I had COs working for me at Southern New Mexico  
17 at the time, and they figured I would be able to get  
18 the information out without the officers knowing  
19 about it.

20 Q. Did you receive a communication back from  
21 Arturo Garcia after you sent him the roll call?

22 A. No, I never got no communication back  
23 because the letter got intercepted in the mail. We  
24 were supposed to send it to Arturo's wife at the  
25 time. I had my friend, Ernest Tillerson, Bobcat --

1 he got out. I didn't want to use the cops in no way  
2 to get this information out. So I gave him the  
3 letter, he took it out of the facility when he went  
4 home, e-mailed the letter to Arturo's wife.

5 MR. BLACKBURN: Objection, Your Honor,  
6 foundation.

7 THE COURT: Establish how he knows these  
8 things from a nonhearsay source.

9 MR. BECK: Sure.

10 A. I know these things because I set it up.  
11 I made it happen.

12 BY MR. BECK:

13 Q. Sure, and I guess the question is: Who  
14 told you that these letters were intercepted on the  
15 outside by his girlfriend?

16 A. The officers told me it was intercepted,  
17 because his girlfriend sent it back to the facility.

18 Q. Okay. That's enough, Mr. Clark.

19 So after you sent that letter and then the  
20 letter was intercepted, is that why you were being  
21 moved to segregation?

22 A. Yes, for -- yes, it was.

23 Q. And when were you moved to segregation?

24 A. The same day that Fred Sanchez arrived at  
25 Southern New Mexico Correctional Facility.

1 Q. Is that why you only had a couple of  
2 minutes to speak with Jesse Trujillo?

3 A. Yes, it was.

4 Q. What happened after you told him to use  
5 Raymond Rascon and Ruben Hernandez? What happened  
6 next?

7 A. From what was told to me by Edward  
8 Troup --

9 MR. BURKE: Excuse me, hearsay.

10 THE COURT: Well, this would not be  
11 hearsay from Mr. Troup. Overruled.

12 BY MR. BECK:

13 Q. What did Mr. Troup tell you about what had  
14 happened?

15 MR. BURKE: Excuse me. Could we get a  
16 time for this conversation, this alleged  
17 conversation?

18 THE COURT: Do you mind doing that,  
19 Mr. Beck?

20 MR. BECK: I don't.

21 BY MR. BECK:

22 Q. Did you speak with Edward Troup about the  
23 Fred Dawg Sanchez murder in 2007?

24 A. Yes, I did.

25 MR. SINDEL: Your Honor, excuse me. I

1 don't mean to interrupt. I guess it was an  
2 accident. But could we have a limiting instruction  
3 here, please?

4 THE COURT: Why don't y'all approach and  
5 tell me -- is this on the chart?

6 MR. BECK: I don't know that this one is  
7 on the chart. I think it was probably part of a  
8 different motion, but we can approach.

9 THE COURT: Do you have any problem with  
10 the limiting instruction on this?

11 MR. BECK: No, I don't.

12 THE COURT: Let me give it, then. It  
13 sounds like this is a statement from Mr. Troup, and  
14 you can only use this statement in your deliberation  
15 of the charges against Mr. Troup and not any other  
16 defendant.

17 MR. BURKE: Your Honor, I want to object.  
18 We went through the exercise of vetting these. So  
19 if it hasn't been vetted through the process that we  
20 went through, then I would object.

21 THE COURT: All right. Overruled.

22 Mr. Beck.

23 BY MR. BECK:

24 Q. Real quickly, Mr. Clark, I'm going to show  
25 you Government's Exhibit 828. Do you recognize this

1 as a photo of the PNM North facility?

2 A. Yes.

3 Q. After you were put in Southern New Mexico  
4 Correctional Facility, were you then moved in 2007  
5 up to the North facility at PNM?

6 A. Yes, I was.

7 Q. And at the North facility at PNM, did you  
8 have a conversation with Edward Troup about the Fred  
9 Dawg Sanchez murder?

10 A. Yes, I did.

11 Q. What did Mr. Troup tell you about what  
12 happened after you left 1-A blue pod in 2007, in  
13 June?

14 A. That they were going to try to make the  
15 Rascon brothers kill Fred Sanchez. Brian Rascon and  
16 Raymond Rascon. But Frankie Gonzalez and Ernest  
17 Guerrero went to the door, front door, and told him  
18 and Javier Alonso, "Why the F isn't it done? If  
19 this doesn't get done, then we're going to go in  
20 there and do Fred Dawg, and then we're going to do  
21 you."

22 Q. And what did Mr. Troup tell you happened  
23 after they were told that?

24 A. They, being Javier Alonso and Edward  
25 Troup, decided to kill Fred Sanchez.



1 Q. What did he tell you they did after they  
2 decided to kill Fred Sanchez?

3 A. They waited till Saturday, which was the  
4 day we went to gym. I had ordered ice cream and  
5 Cokes and stuff. I had told the gym officer when  
6 they locked me up to give it to Jesse Trujillo, who  
7 was a distant family relation of mine. And they  
8 wanted to eat the ice cream before they killed Fred  
9 Sanchez.

10 Q. And what did Mr. Troup say about whether  
11 he and Javier Alonso did do anything to Mr. Fred  
12 Sanchez?

13 A. Well, he said Javier grabbed him, threw  
14 him on the floor, put the rope around his neck,  
15 stood on his back, Troup fell on his legs. He said  
16 that Fred Sanchez didn't fight at all. And Javier  
17 rode Fred Sanchez like a horse, their words,  
18 slamming his head into the floor while he was  
19 strangling him. After Fred Sanchez was dead, that  
20 Javier picked up Fred Sanchez, put him on the bunk,  
21 face down, ass up, meaning he just got boned. He  
22 told me that Jesse Trujillo went into the room,  
23 cleaned up, swept and mopped the floor, flushed the  
24 guillotine down the toilet. That's how they killed  
25 Fred Sanchez.

1 Q. Did you ever have a conversation with  
2 Arturo Garcia about the Fred Dawg Sanchez murder?

3 A. Yes, I did.

4 Q. And what did Arturo Garcia tell you about  
5 the Fred Sanchez murder?

6 MS. BLANCO: Objection, foundation. Can  
7 we have a timeframe on this?

8 THE COURT: Do you mind that, Mr. Beck?

9 MR. BECK: I don't.

10 BY MR. BECK:

11 Q. Where was it that you had a conversation  
12 with Arturo Garcia about the Fred Sanchez murder?

13 A. We were in --

14 MR. SINDEL: Can we have a limiting  
15 instruction?

16 THE COURT: This is just a where question.  
17 Let's hold off.

18 Go ahead, Mr. Beck.

19 A. We were in 3A at the time. Arturo was in  
20 S12. I was in T8, pod S12. That's the cell number.  
21 I was in T pod, cell 8 at the time.

22 Q. And approximately when was this?

23 A. This was around February of 2008,  
24 February, March, somewhere around that time.

25 Q. And what did Arturo Garcia tell you about

1 the Fred Dawg Sanchez murder in 2008?

2 THE COURT: Let me -- before I do --

3 MR. BECK: I do.

4 THE COURT: Do you agree with the limiting  
5 instruction?

6 MR. BECK: Yes.

7 THE COURT: So the statements that are  
8 going to be made here are statements Mr. Arturo  
9 Garcia made to Mr. Clark. You can only use these in  
10 the consideration of the charges against Mr. Arturo  
11 Garcia and cannot be used in your deliberation of  
12 the charges against the other gentlemen.

13 All right. Mr. Beck.

14 BY MR. BECK:

15 Q. So in that conversation with Mr. Arturo  
16 Garcia at the North facility, what did he tell you  
17 about the Fred Dawg Sanchez murder?

18 A. Well, we had the COs move me to the shower  
19 on the S pod, top tier, and it's located right next  
20 to the cell that Arturo was housed in, S12. Arturo  
21 was giving me a gram of heroin at the time. We  
22 discussed the letter that got intercepted, why I got  
23 locked up, and my initial report. And he asked me,  
24 "So you got that -- you got that message about  
25 Fred?"

1 And I said, "Yeah, obviously. He's dead."

2 And that was our conversation.

3 Q. Did Arturo Garcia say anything to you  
4 after you told him that, "Yeah, obviously, Fred Dawg  
5 is dead"?

6 A. He said, "You did good, brother."

7 Q. Have you met with federal agents and us  
8 prosecutors several times throughout this case to  
9 give statements about your involvement in the SNM?

10 A. Yes, because I've been into so much. I've  
11 been so deep in the SNM.

12 MR. BURKE: Excuse me. It was a yes-or-no  
13 question.

14 THE COURT: Overruled.

15 MR. BURKE: It didn't call for narrative.

16 THE COURT: Overruled.

17 BY MR. BECK:

18 Q. So I asked, over the pendency of this  
19 trial, have you given several statements to the FBI  
20 and us prosecutors?

21 A. Yes, I have.

22 Q. Why?

23 A. Because I've been involved in so much  
24 stuff in the SNM, it's hard to remember everything  
25 that I've done. We're constantly on a mission,

1 discussing different things that we have to do to  
2 make our organization stronger. So I've been  
3 involved in so much stuff, it's hard to remember  
4 everything at one sitting. Stuff comes up that I  
5 remember, and I relay it back to the federal  
6 government.

7 Q. Did you and I meet together with Task  
8 Force Officer Cupit in March, just before this trial  
9 began?

10 A. Yes, we did.

11 Q. Did we talk about the defendants going to  
12 trial in this case and statements that they've given  
13 to you over the years?

14 A. Yes, we did.

15 Q. Was that the first time we talked about  
16 that?

17 A. Me and you, I believe so.

18 Q. Did you tell me about -- did you tell me  
19 about conversations you've had with Eugene Martinez?

20 A. Yes, I did.

21 Q. Did you also tell me about a conversation  
22 that you had with Mr. Troup again, related to the  
23 Looney and Pancho murders in 2001?

24 A. Yes, I did.

25 Q. Where were you when you had this

1 conversation with Mr. Troup?

2 A. I was in -- I was in T pod, in 3A.

3 Q. Approximately what time was this?

4 A. This was in 2004, over the summer.

5 Q. Was there anyone else beside and Mr. Troup  
6 in this conversation?

7 A. Eugene Martinez.

8 Q. I'm going to show you Government's Exhibit  
9 110. Is that the Eugene Martinez that was in this  
10 conversation with you?

11 A. Yes, sir. That's Burrito.

12 Q. I'm going to show you again Government's  
13 Exhibit 828. Do you recognize -- you talked earlier  
14 about S pod at the North. Do you know where S and T  
15 pod are in this picture?

16 A. Yes, I do.

17 Q. Where are those?

18 A. This is 3A. This is Q pod. This is R  
19 pod, this is S pod, this is T pod.

20 Q. And over the years when you're locked up  
21 in the North facility here, is it like the South  
22 facility where they keep SNM members together?

23 A. Well, at the North they split us apart,  
24 but there are so many of us, we always end up  
25 bunched up together.

1 Q. In the summer of 2004, when you were  
2 talking with Troup and Eugene Martinez, what did  
3 Troup tell you?

4 A. He said, "I really didn't do nothing. All  
5 I did was close the door." He said, "I wasn't  
6 involved in it."

7 Q. And what did you understand him to be  
8 referring to in 2004 when he said, "I didn't do  
9 nothing. I just closed the door"?

10 A. Pancho's murder.

11 Q. Do you know Pancho as Frank Castillo?

12 A. Yes, I do.

13 Q. Did he say anything to Eugene Martinez?

14 A. Knowing Gene, we were all laughing and --

15 Q. Did he say anything to you or to Eugene  
16 about Eugene Martinez?

17 A. We were all talking together. Can you put  
18 that thing up again?

19 Q. Sure. 828, please.

20 A. They would take us to the yard. This is  
21 the yard, and the --

22 Q. When you say, "This is the yard," did you  
23 just circle the cages to the right, on the right  
24 bottom of the screen next to the pods in  
25 Government's Exhibit 828?

1 A. Yes, I had.

2 Q. What happened when they took you to the  
3 yard?

4 A. Okay. So in this yard, you've got cages  
5 that are all next to each other. There's bunched up  
6 cages here and here. And we were all bunched up in  
7 the back here, me, Troup, and -- me, Edward and  
8 Eugene. And you know, we were just chopping it up,  
9 we're talking. And Eugene brings up killing.

10 MR. GRANBERG: Objection, hearsay.

11 Q. Sorry, yeah, don't tell us what Eugene  
12 said. I think you told us what Mr. Troup said. Did  
13 he say anything to you and to Eugene about --

14 THE COURT: "He" being Mr. Troup?

15 MR. BECK: Mr. Troup. Sorry. Thank you,  
16 Your Honor.

17 BY MR. BECK:

18 Q. Did Mr. Troup say anything to you and  
19 Eugene about Looney?

20 A. Yes, he did.

21 Q. What did he say?

22 A. He said -- he was just clowning. He said,  
23 "Yeah, you got him good, brother," or something like  
24 that. He was clowning on him, and brought up how  
25 Looney got killed.



1 Q. And did you know Looney to be Rolando  
2 Garza?

3 A. Yes, I did.

4 Q. Did you also tell me about the  
5 conversation you had with Joe Lawrence Gallegos?

6 A. Yes, I did.

7 Q. Do you see Joe Lawrence Gallegos in the  
8 courtroom?

9 A. Yes, I do.

10 Q. Where is he?

11 A. He's in the back over there.

12 Q. Did he just stand up for you?

13 A. Yes, he did.

14 MR. BECK: Let the record reflect the  
15 identification of Joe Lawrence Gallegos, Your Honor.

16 THE COURT: The record will so reflect.

17 BY MR. BECK:

18 Q. And when did this conversation with  
19 Mr. Joe Lawrence Gallegos take place?

20 A. In 2004.

21 Q. And where did this take place?

22 A. In the yard.

23 Q. The same yard that we just saw?

24 A. Yes.

25 Q. Have you ever heard that referred to as

1 Jurassic Park?

2 A. Yes, I have.

3 Q. And what did Joe Lawrence Gallegos tell  
4 you in 2004?

5 A. I brought up Arturo Garcia had produced  
6 paperwork on Joe Lawrence about shooting or  
7 something like that on his house, or something,  
8 where Joe Lawrence made a statement, and saying it  
9 was some guys over there in a certain car, the 18th  
10 Streeters, and Arturo was trying to get Joe Lawrence  
11 killed.

12 I told Joe Lawrence I didn't believe that  
13 that paperwork was true. And he told me, "After  
14 everything I've done for the SNM, after killing  
15 Pancho," he said, "this guy wants to do this to me."

16 I said, "No, man. I've got your back,  
17 Joe. Don't even trip."

18 And then we started talking about how  
19 Pancho got killed.

20 Q. And what did Joe Lawrence say?

21 A. He said that Angel DeLeon held him down  
22 with the monkey grip or gorilla grip, something like  
23 that, and that it was easy; that Angel held him so  
24 tight that it was easy for him to kill Pancho.

25 Q. All right. Let me ask, did you have a

1 conversation with Christopher Chavez, or Critter?

2 A. Yes, we did, a brief conversation.

3 Q. And where did this conversation take  
4 place?

5 A. It was in the yard in 2002, and I was just  
6 meeting him. I was just meeting him. And I just  
7 said, "Oh, you're one of the guys that were involved  
8 in that shit in Cruces."

9 And he said, "No, we're not supposed to  
10 talk about that. We're not supposed to talk about  
11 that."

12 And that was our conversation.

13 Q. And what did you -- what were you  
14 referring to when you said, "You're one of those  
15 guys who killed in Las Cruces"?

16 A. The double homicide.

17 Q. And did you think that Mr. Chavez  
18 understood that's what you were talking about when  
19 you said --

20 MR. GRANBERG: Objection, speculation.

21 THE COURT: He can give what his  
22 understanding was. Overruled.

23 BY MR. BECK:

24 Q. Sorry, so --

25 A. Well, I was pointed to him through guys in

1 my pod, who was Joe Lawrence, Mauricio Varela,  
2 Samuel Silva. You know, these were SNM members in  
3 my pod, and they were telling me about --

4 Q. Hold on one second, Mr. Clark.

5 THE COURT: Hold on.

6 Q. So when you were pointed to him and you  
7 were told, "You're one of the guys that did the  
8 killing in Las Cruces," he said, "Shut up. You're  
9 not supposed to say anything," did you understand  
10 him to be referring to the murder of --

11 A. Yeah. "We're not supposed to talk about  
12 that." That's what he said. "We're not supposed to  
13 talk about that." It was actually one of the smart  
14 ones.

15 MR. GRANBERG: Objection, Your Honor, that  
16 question was never asked.

17 THE COURT: Overruled.

18 BY MR. BECK:

19 Q. Let me ask you -- hold on one second.  
20 Sorry. Do you see Mr. Chavez here in the courtroom?

21 A. Yes, I do. He's right there.

22 Q. And what is he wearing?

23 A. He's wearing a striped red-and-black tie.

24 MR. BECK: Let the record reflect  
25 identification of defendant Christopher Chavez.

1 THE COURT: The record will so reflect.

2 BY MR. BECK:

3 Q. Do you know defendant Billy Garcia?

4 A. Yes, I do.

5 Q. Does he go by any other names?

6 A. Wild Bill.

7 Q. Do you know him to be a member of the SNM?

8 A. Yes, I do.

9 Q. Do you know the defendant Allen Patterson?

10 A. Yes, I do.

11 Q. Do you know him by any other names?

12 A. Trigger.

13 Q. Do you know him to be an SNM member?

14 A. Yes, I do.

15 Q. Do you know the defendant Andrew Gallegos?

16 A. No, I don't.

17 Q. As part of your cooperation in this case,  
18 did you enter into a plea agreement with the United  
19 States?

20 A. Yes, I did.

21 Q. I'm going to show you Government's Exhibit  
22 294.

23 MR. BECK: I did move this in evidence,  
24 did I not?

25 THE CLERK: 294? Hold on.

1 THE COURT: At the beginning.

2 MR. BECK: All right. Thank you, Your  
3 Honor. Sorry. At this time the United States moves  
4 into evidence Government's Exhibits 294 and 295.

5 THE COURT: Any objection from the  
6 defendants to these two? Not seeing or hearing any,  
7 Government's Exhibits 294 and 295 will be admitted  
8 into evidence.

9 (Government Exhibits 294 and 295  
10 admitted.)

11 MR. BECK: Thank you. Let's show 294.

12 BY MR. BECK:

13 Q. Do you recognize this?

14 A. Yes, I do.

15 Q. Is this your plea agreement with the  
16 United States?

17 A. Yes, it is.

18 Q. If we could turn to the next page, please.  
19 Did you plead guilty to Count 3 of the indictment  
20 which charged violent crimes in aid of racketeering  
21 activities, murder, and aiding and abetting?

22 A. Yes, I did.

23 Q. Is Count 3 the murder of Fred Dawg  
24 Sanchez?

25 A. Yes, it is.

1 Q. For pleading guilty to that count, do you  
2 currently face a mandatory term of life  
3 imprisonment?

4 A. Yes, I do.

5 Q. I'm going to show you Government's Exhibit  
6 295. Have you seen this document before?

7 A. Yes, I have.

8 Q. Is this the addendum to your plea  
9 agreement?

10 A. Yes, it is.

11 Q. Do you understand that -- in paragraph 2,  
12 what do you understand you're required to do to  
13 possibly benefit from this plea agreement?

14 A. Yes, I do.

15 Q. What do you understand you're required to  
16 do?

17 A. Tell the truth.

18 Q. And does that include not exaggerating  
19 anyone's involvement or implicating anyone who is  
20 not involved?

21 A. Yes, it does.

22 Q. And the next page, please. Do you  
23 understand that if you abide by this plea agreement,  
24 the United States may move in its discretion with  
25 the U.S. Attorney for a downward departure under

1 5K1.1?

2 A. Yes, I do.

3 MR. BLACKBURN: Your Honor, it's leading.

4 THE COURT: Don't lead.

5 BY MR. BECK:

6 Q. If the United States does that and moves  
7 under 5K1.1, who makes the ultimate decision in what  
8 sentence you'll serve?

9 A. Mr. Judge Browning.

10 Q. And I want to go back to Exhibit 294,  
11 please, and page 4. Do you recognize this as your  
12 plea agreement and there is a portion redacted out  
13 here?

14 A. Yes, I do.

15 Q. And in that portion, does it talk about  
16 your role in the Fred Dawg murder and why you're  
17 pleading guilty?

18 A. Yes, it does.

19 MR. BLACKBURN: Your Honor, I object to  
20 relevance.

21 THE COURT: Overruled.

22 BY MR. BECK:

23 Q. And is that substantially what you told us  
24 today about your participation in the murder?

25 A. Yes, it is.



1 Q. And did you -- in your opinion, did you  
2 aid and abet the murder by passing the paperwork?

3 A. I had Fred Dawg killed.

4 MR. BECK: May I have a moment, Your  
5 Honor?

6 THE COURT: You may.

7 MR. BECK: No more questions, Your Honor.

8 THE COURT: All right. Thank you,  
9 Mr. Beck.

10 Who is going to go first?

11 MR. BLACKBURN: I am, Your Honor.

12 THE COURT: Mr. Blackburn. Do you want us  
13 to take our break at this point, and then do you  
14 want to get started? What do you want to do?

15 All right. We'll be in recess for about  
16 15 minutes. All rise.

17 (The jury left the courtroom.)

18 THE COURT: All right. We'll be in recess  
19 for about 15 minutes.

20 (The Court stood in recess.)

21 THE COURT: All right. I think we've got  
22 all the attorneys in the room, all the defendants.  
23 So I think we've got all the defendants and an  
24 attorney for each one.

25 I did get done with the chart. It's not

1 filed yet. I'll give you a docket number. I think  
2 it was sent to you, Ms. Harbour-Valdez.

3 MS. HARBOUR-VALDEZ: It's been circulated,  
4 Your Honor.

5 THE COURT: Did you send it to the  
6 Government, as well?

7 MS. HARBOUR-VALDEZ: She just sent it to  
8 the defense teams.

9 THE COURT: Why don't you send it to the  
10 Government, too.

11 THE CLERK: I did, Your Honor.

12 THE COURT: So we'll get a docket number  
13 and put that on in a moment.

14 Did you have something?

15 MR. BECK: We just redacted 291, so I was  
16 just going to move it in the record.

17 THE COURT: Any objection to 291 redacted?  
18 All right, 281.

19 You were correct, Mr. Beck, so I'm going  
20 to take it off today. It was admitted yesterday  
21 with Mr. Rhoades. It was the first exhibit.

22 THE CLERK: Then also, Judge, yesterday  
23 Maria asked you to admit 387, and what she actually  
24 showed was 397. We need to clarify that.

25 THE COURT: Ms. Armijo asked me to move

1 387 but she showed on the screen 397. Any objection  
2 to substituting 397 for 387?

3 MR. BENJAMIN: Just for clarification,  
4 Your Honor, what is 397?

5 MR. BECK: It's the burned belt.

6 MR. BENJAMIN: No, Your Honor.

7 THE COURT: So 387 will be pulled out, 397  
8 will be in. I won't admit 281 today because it was  
9 admitted yesterday. Does that clear up everything?

10 All right. Before we're seated,  
11 Mr. Moore, show everybody your Star Wars shirt. May  
12 the 4th be with you.

13 For those of you who are not Star Wars  
14 fans, today is May 4th. If you don't get it, talk  
15 to your partner. He'll explain it to you.

16 Mr. Skousen, I understand you have some  
17 good Law Day news. Your son passed the bar?

18 MR. SKOUSEN: My son-in-law.

19 (Applause.)

20 THE COURT: So he learned that last night.  
21 And what a Law Week it is for you; right?

22 MR. SKOUSEN: Yes, thanks.

23 THE COURT: Congratulations.

24 MR. SKOUSEN: Thank you.

25 THE COURT: All right. Mr. Clark, I'll

1 remind you that you're still under oath.

2 THE WITNESS: Yes, sir.

3 THE COURT: Mr. Blackburn, if you wish to  
4 conduct cross-examination of Mr. Clark, you may do  
5 so at this time.

6 MR. BLACKBURN: May the 4th be with you.

7 CROSS-EXAMINATION

8 BY MR. BLACKBURN:

9 Q. Mr. Clark, I want to start where Mr. Beck  
10 left off with you. I think the last statement that  
11 you said as we were getting ready to leave the  
12 courtroom was you were talking about your plea  
13 agreement and what was indicated in the factual  
14 basis of the plea agreement. And I think that you  
15 indicated to Mr. Beck that a portion of what was in  
16 that particular part that's been redacted out  
17 relates to the issue relating to Fred Dawg, and I  
18 think you said that what was in there was a  
19 statement that said, "I had Fred Dawg killed"; isn't  
20 that correct?

21 A. Yes, I believe so.

22 Q. Well, that's what you said a while ago --

23 A. Yes.

24 Q. -- that the redaction was basically the  
25 part that said, "I had Fred Dawg killed"; right?

1 A. Yes.

2 Q. And of course, you made that statement  
3 also in one of your numerous interviews with the  
4 Government, but in particular, as Mr. Beck stated,  
5 the last one that you did on March 20 of 2018; isn't  
6 that correct?

7 A. I believe so.

8 Q. Well, you do recall, as you indicated, you  
9 did a number of interviews, sit-downs, or  
10 discussions with the prosecution and members of the  
11 FBI, did you not?

12 A. Yes, I have.

13 Q. I think, in fact, in one of the  
14 interviews, you had three or four agents from the  
15 FBI, you had two or three agents from the STIU, you  
16 had three or four members of the prosecution staff.  
17 You probably needed a conference room the size of  
18 the convention center here for that particular 302;  
19 is that correct?

20 A. No, it wasn't the size of this room.

21 Q. All right.

22 A. But we did have that meeting.

23 Q. All right. So it's true, is it not,  
24 though, that you met recently with Mr. Beck to go  
25 over your testimony; correct?

1 A. Yes, it is.

2 Q. And that meeting occurred a week ago; is  
3 that correct?

4 A. Yes.

5 Q. I think, like, March 20, 2018, just a few  
6 days before this trial started, did it not?

7 A. Yes.

8 Q. And of course, that was just to go over  
9 and talk to you again about what was going to happen  
10 at the trial and what questions may be asked, or to  
11 see if you had anything else you wanted to add or  
12 subtract from your statements; correct?

13 A. Yes, it was.

14 Q. And it was at that particular interview,  
15 after several of them, was the first time that you  
16 told Mr. Beck this conversation about how you only  
17 had a few seconds to be able to tell Jesse Trujillo  
18 through the vent in the wall that you told them to  
19 have Cheeky, Raymond Rascon, and Bull Hernandez do  
20 the assault; is that correct?

21 A. Yes, it was.

22 Q. So you started cooperating basically I  
23 think you said the day you were arrested; is that  
24 correct?

25 A. Yes, it was.

1 Q. And through all of those interviews, four,  
2 five, six interviews, it was at the last interview  
3 just recently that you told them about the situation  
4 concerning that when Sanchez arrived, number one,  
5 you saw him, right; is that true?

6 A. Yes, I saw him.

7 Q. So you saw Mr. Sanchez when he came in  
8 because you were on your way to --

9 A. Segregation.

10 Q. -- segregation; right? And before you  
11 left, you were able to speak to Mr. Trujillo through  
12 the vents in the wall; right?

13 A. Yes, I was.

14 Q. To be able to tell them that you had now  
15 authorized them to go forward with the hit; correct?

16 A. Yes, I was.

17 Q. All right. And the paperwork had already  
18 been -- according to you, had already been delivered  
19 some two months earlier; right?

20 A. Yes.

21 Q. And if paperwork is delivered on somebody,  
22 as you have indicated, and you are informing against  
23 other members of the SNM, that's an automatic green  
24 light; right?

25 A. Yeah, they're going to kill me when they

1 get a chance.

2 Q. Well, they're going to kill him, right,  
3 when they get a chance; right?

4 A. They did kill him.

5 Q. But that was because you finally gave the  
6 orders to Jesse to go ahead and have those two  
7 people do it, who you thought were going to screw it  
8 up and only stab him, as opposed to kill him; right?

9 A. Sure.

10 Q. But that would have gotten you also in hot  
11 water, would it not?

12 A. No.

13 Q. I thought that my understanding was that  
14 what you told us earlier was that the SNM has a rule  
15 that if you rat on somebody, in particular another  
16 SNM member, that that is an automatic green light;  
17 right?

18 A. Of course.

19 Q. And a green light, are you saying, means  
20 assault as opposed to kill?

21 A. No, it means kill but --

22 Q. Okay.

23 A. I could have worked my way out of it. I  
24 could have said, "They tried to kill him, they  
25 didn't kill him." Everybody gets away with it.



1 Q. But you did work your way out of it,  
2 because you left that facility, you left that  
3 particular pod, and you put yourself in protective  
4 custody so that you would not be in that cell when  
5 Sanchez arrived; right?

6 A. That's totally wrong.

7 Q. All right. Well, you saw Fred Dawg there,  
8 didn't you?

9 A. Yes. Right.

10 Q. And you knew he was coming into that  
11 particular pod, didn't you?

12 A. No, I didn't.

13 Q. You knew he was going to be in one of the  
14 SNM pods, did you not?

15 A. We didn't have no foreknowledge.

16 Q. You were surprised when he showed up;  
17 right?

18 A. Yes, I was.

19 Q. Because this green light had been on him  
20 for the better part of a couple of months and he  
21 wasn't there; correct?

22 A. Yes.

23 Q. He was coming back from something in the  
24 Roswell situation, was he not?

25 A. I can't tell you what he was doing.

1 Q. All right. How long had you been -- you  
2 had been at that facility, the Southern New Mexico  
3 facility, for over a year, had you not, at that  
4 time?

5 A. No, maybe about seven months.

6 Q. Seven months. All right. When you came  
7 to that facility, to Southern New Mexico, you came  
8 from the South?

9 A. I progressed through the level system.

10 Q. So you had gone from the North to the  
11 South, and then you were on your way down to  
12 Southern New Mexico?

13 A. Yes, I was.

14 Q. So you saw him come in, and you're the one  
15 who eventually, when you saw him, you told -- as we  
16 discussed, you told Mr. Trujillo who should take  
17 care of this; correct?

18 A. Yes.

19 Q. And as you said, you had Fred Dawg killed;  
20 correct?

21 A. Pretty much. I was following orders.

22 Q. Well, that's not what you said. You said  
23 that you're the one who had him killed, because he  
24 just arrived; correct? Is that correct?

25 A. I was following orders I was given.

1 Q. Okay. Let's go back. You were in custody  
2 because of a series of armed robberies that you  
3 committed in --

4 A. 1996.

5 Q. -- 1996 and 1997; is that correct?

6 A. 1996.

7 Q. 1996; right?

8 A. Yes.

9 Q. And those were committed here in Las  
10 Cruces, were they not?

11 A. Yes, they were.

12 Q. And on April 17, 1996, April 21, 1996,  
13 August 18, 1996, and August 14, 1996; is that  
14 correct?

15 A. I can't tell you the dates. I don't have  
16 the paper in front of me. But I was convicted of  
17 five armed robberies. Three of them ran  
18 consecutive, two of them were ran concurrent, for a  
19 total of 27 years.

20 Q. And at the time, you were only, like, 17  
21 or 18 years of age, were you not?

22 A. Yes, I was.

23 Q. And they gave you an adult sentence as  
24 opposed to a juvenile sentence, did they not?

25 A. Yes, they did.

1 Q. And that's when you first went into the  
2 prison; correct?

3 A. I've never gotten out.

4 Q. That was my next question. Since the day  
5 that you went in, since you were arrested on those  
6 issues back in 1996, you have been in custody the  
7 entire time; is that correct?

8 A. Yes, I have.

9 Q. And at the time you said that you were a  
10 member of a local gang here in Las Cruces; correct?

11 A. Yes, I was.

12 Q. And that was the -- I'm sorry, let me look  
13 at this again.

14 A. South Side Royal Knights.

15 Q. South Side Royal Knights. Do you have a  
16 tattoo that relates to that particular gang?

17 A. Yes, I do.

18 Q. Do you also have a tattoo of Surenos?

19 A. Yes, I do.

20 Q. So when you entered into the system, you  
21 were actually a Sureno? Is that safe to say?

22 A. Sure.

23 Q. And just to be clear, those armed  
24 robberies are really not the only convictions that  
25 you have, are they?

1 A. As an adult?

2 Q. As an adult, yes.

3 A. I have another conviction for possession  
4 of deadly weapon or firearms or explosives in the  
5 prison facility.

6 Q. And that just occurred in March of 2014;  
7 is that correct?

8 A. Yes, it is.

9 Q. A conviction for possession of a deadly  
10 weapon or explosive by a prisoner here in Southern  
11 New Mexico; right?

12 A. Yes, it was.

13 Q. And they gave you nine years. The judge  
14 gave you nine years on that particular sentence, but  
15 he ran everything together with what you're serving;  
16 correct?

17 A. He suspended nine years, gave me five  
18 years' probation.

19 Q. So even though you were convicted on that,  
20 you don't have to serve any extra time?

21 A. No.

22 Q. So in December of 2015, you were arrested  
23 as it relates to this charge; correct?

24 A. Yes, I was.

25 Q. And you were initially indicted with the

1 same -- in the same indictment that most of these  
2 individuals are in here today; is that correct?

3 A. Yes, I was.

4 Q. And you were charged with, as Mr. Beck  
5 pointed out, Count 3, which was murder in aid of  
6 racketeering; correct?

7 A. Yes, sir.

8 Q. And at the time that that indictment came  
9 down, you and the majority of the defendants were  
10 charged with the death penalty, were you not?

11 A. Yes, we were.

12 Q. And eventually that changed, though, did  
13 it not?

14 A. Yes, it did.

15 Q. All right. And when you were arrested,  
16 initially you gave a lengthy tape-recorded statement  
17 to the officers that arrested you; correct?

18 A. I don't know if it was tape-recorded, but  
19 I gave them a statement.

20 Q. All right. And do you remember who that  
21 was, who you talked to at the time?

22 A. I don't remember the first two guys'  
23 names, but I remember eventually Mr. Acee came in  
24 and talked to me.

25 Q. Okay. So you were arrested in December of

1 2015. Not only was there an individual from the FBI  
2 by the name of Dougherty and a Dona Ana County  
3 individual, but also Mr. Acee was there at some  
4 point in time. Is that what you're saying?

5 A. Yes, sir.

6 Q. And you told them you had joined the SNM  
7 in about 1997; is that correct?

8 A. Like I've always said '97, '98.

9 Q. Basically when you got there; is that  
10 correct?

11 A. No, not -- I had already been in prison  
12 for six, seven months, maybe a little longer.

13 Q. Okay. And at the time you were arrested,  
14 where were you being housed at on this particular  
15 incident?

16 A. I don't understand.

17 Q. At the time that they arrested you for  
18 this indictment, what facility were you at?

19 A. I was at the North facility.

20 Q. And you told us that you got your -- you  
21 earned your bones from a stabbing as it relates to a  
22 gentleman by the name of Junior; right?

23 A. Leroy Torrez, yes, it was.

24 Q. I'm sorry, Leroy Torrez. And you were  
25 told to do that by Angel Munoz; is that correct?

1           A.     The word came from the North, and it was a  
2     validated hit.

3           Q.     All right. And when was that? 1997,  
4     1998?

5           A.     November 1998.

6           Q.     So as you talked about before, you sort of  
7     made your way up to the -- what you said at one  
8     point in time in 2007, 2008, 2009, that you were one  
9     of the top members of the hierarchy of SNM; is that  
10    correct?

11          A.     It was later on in 2009, 2010, 2011.

12          Q.     Well, when you were in Southern in 2007 as  
13    it relates to the situation with Fred Dawg, you were  
14    in charge of that particular pod, were you not?

15          A.     Yes, of that pod.

16          Q.     That pod; right? And before you got  
17    there, somebody else was in charge of that pod, and  
18    you took over when you arrived, because you had more  
19    seniority and hierarchy and you became the head of  
20    that particular blue pod; right?

21          A.     Yes.

22          Q.     And you made it very clear to everyone in  
23    that pod that if anything came down or came through  
24    there relating to any SNM stuff, it was to go to you  
25    first; is that correct?



1 A. Yes, it was.

2 Q. We're not going to play this of going to  
3 Ruben Hernandez or going to anybody else as you  
4 later talked about. That stuff had to come directly  
5 to you; correct?

6 A. Yes, it did.

7 Q. And Kyle Dwyer had been there for the  
8 better part of a couple of months himself, had he  
9 not?

10 A. The first day he got there, he gave me the  
11 paperwork.

12 Q. All right. So he was an SNM member, was  
13 he not?

14 A. Yes, he was.

15 Q. So he knew the rules; right?

16 A. Yes, he did.

17 Q. And some of those rules are that, as you  
18 said, you cannot testify, you cannot be a rat and  
19 testify about any other gang member of SNM; correct?

20 A. Anybody, period.

21 Q. Anybody, period. So if somebody is an  
22 informant that's of the LC or some other gang, does  
23 that also mean that that allows you to do a hit on  
24 them also?

25 A. Well, it's prison politics at that point,

1 you know.

2 Q. Okay.

3 A. Their people take care of their people.

4 Our people take care of our people.

5 Q. That's as long as you're at peace. But if  
6 you're at war, you get to take care of their people  
7 also?

8 A. If we're at war, we just stab them on  
9 sight; right.

10 Q. So one of the other things is, besides  
11 that, is sort of like what we'd call automatic green  
12 lights; right?

13 A. Yes.

14 Q. Okay. Another one is: There will be not  
15 be any child molesters or informants; right?

16 A. Sure.

17 Q. There will not be anyone who is allowed to  
18 make a move on another SNM member's wife,  
19 girlfriend, or significant other; is that correct?

20 A. Yes, it is.

21 Q. And those are automatic green lights that  
22 everybody knows when they're part of SNM; correct?

23 A. Yes, it is.

24 Q. And if you don't act, if you don't act, if  
25 a member does not act on that particular green

1 light, then that person can also have a green light  
2 on him; is that correct?

3 A. Yes, it is.

4 Q. So if they know -- if an SNM member knows  
5 that that person is a rat or if they're taking  
6 somebody else's wife or something, and they know,  
7 and they don't act on it, then there can be  
8 repercussions to them; correct?

9 A. Sure.

10 Q. All right. And you don't bow down to  
11 anyone else in another gang; right?

12 A. Yes.

13 Q. And you don't disrespect your brothers;  
14 correct?

15 A. Yes.

16 Q. Now, in 2009, as you indicated, you had  
17 risen to sort of hierarchy of this SNM; is that  
18 correct?

19 A. Yes, sir.

20 Q. And you were trying to organize SNM in a  
21 different way, were you not?

22 A. I was trying to organize it the way the  
23 brothers told me to do it.

24 Q. All right. And while you were in the  
25 process of doing that, trying to run the way things

1 should have run, based upon what the older crew  
2 wanted to do as opposed to the younger crew,  
3 something happened; right?

4 A. I don't know what you're talking about.

5 Q. Well, that was what you were trying to do  
6 at that particular time; right?

7 A. That's what I was trying to do, yes.

8 Q. But what happened was: The administration  
9 screwed that up, and they brought somebody else back  
10 from Nevada who sort of took over everything and  
11 screwed that up for you; isn't that true?

12 A. Yes, it is.

13 Q. That was an individual by the name of Pup;  
14 right?

15 A. Yes, sir, it was.

16 Q. So when he came back, you lost control of  
17 that little theories or --

18 A. No.

19 Q. -- organization that you had and you got  
20 out.

21 A. No. Where I was at, things ran the way  
22 they were supposed to run.

23 Q. Did you not tell the agents when you  
24 talked with them on December 3, 2015, that when Pup  
25 returned, it divided the crews and you lost control

1 and you became the odd man out?

2 A. Eventually that happened.

3 Q. Did you not tell them that?

4 A. I did tell them that.

5 Q. All right. And as a result of that  
6 particular situation, you renounced your membership  
7 to SNM. Isn't that what you told them?

8 A. I renounced my membership because I saw my  
9 friend get killed, and I watched him die, and I  
10 didn't want to see that anymore.

11 Q. Did you not tell the agents on December 3,  
12 2015, that when Pup returned, divided the crews, you  
13 lost control, and you renounced your membership to  
14 SNM as a result of the violence that was sparking?

15 A. I mean, you could --

16 Q. Did you not tell them that on December 3?  
17 I'm sorry. Do you want to see --

18 A. Yeah, I would like to see.

19 MR. BLACKBURN: May I approach, Your  
20 Honor?

21 THE COURT: You may.

22 A. That's their statement. It was more than  
23 that. It was more likely.

24 BY MR. BLACKBURN:

25 Q. Okay. So basically what their statement

1 is, or what they wrote down, what these agents wrote  
2 down, the FBI agents who go to school to learn how  
3 to write down all these things whenever a person  
4 gives a statement, what they wrote down was  
5 basically that as a result of what we have just  
6 discussed, that you renounced your membership; is  
7 that correct? That's what they wrote down?

8 A. Yes.

9 Q. All right.

10 A. There is a lot more to why I renounced my  
11 membership, but I renounced my membership.

12 Q. And you have consistently stated that the  
13 New Mexico Department of Corrections is a  
14 crooked-running ship; right?

15 A. Yes, I have.

16 Q. And you have consistently stated that  
17 there are so many problems with the Department of  
18 Corrections that something needs to be done to  
19 organize or reorganize that particular organization;  
20 correct?

21 A. I don't think I've stated it like that.  
22 But yeah, I mean --

23 Q. Well, one of the things that, sort of,  
24 that you have always objected to or complained about  
25 is that it is not unusual for the Department of

1 Corrections to take a known informant that has a  
2 green light on them and put them into a cell with a  
3 bunch of people that they know he's going to get  
4 hit; right?

5 A. That's not uncommon.

6 Q. That's a commonplace occurrence up in the  
7 Department of Corrections; is that right?

8 A. Yeah, it is.

9 Q. Because every time the SNM would try and  
10 get to a Level 3 or a Level 4, they would --  
11 corrections facilities would put somebody back in  
12 there and then you guys would go up to Level 6 all  
13 over again; right?

14 A. That sounds about right.

15 Q. Well, that's what you told them on  
16 December 3, 2015; isn't that true?

17 A. I don't remember.

18 Q. Do you want to look to see?

19 A. Sure.

20 MR. BLACKBURN: May I approach, Your  
21 Honor?

22 THE COURT: You may.

23 BY MR. BLACKBURN:

24 Q. All right. Does that refresh your memory?

25 A. Yes.

1 Q. So you did tell them that about the time  
2 that they would get to a Level 3, that the  
3 administration would do something to push somebody's  
4 button; right?

5 A. Yes, they would.

6 Q. All right. Now, when you're in a Level 6,  
7 as I understand, you're very limited in your  
8 movements and you're very limited in any benefits  
9 that you get; right?

10 A. Yes, it is.

11 Q. So you're limited to, like, three showers  
12 per week; right?

13 A. Before we had five showers a week, and  
14 then eventually it turned to three showers a week.

15 Q. So they cut it down further?

16 A. Yes.

17 Q. And you were only allowed to have one  
18 phone call per month and one visitor per month?

19 A. Yes. After Javier Molina was killed,  
20 that's what they did to us.

21 Q. And that was in 2014; correct?

22 A. Yes.

23 Q. And the institution controls your movement  
24 most of the time, but whenever you're in a Level 6,  
25 they really control your movement, do they not?



1 A. Yes, they do.

2 Q. So it's sort of important that you can get  
3 down to a Level 4 or to Level 3 where you have more  
4 tier time; right?

5 A. Yes, sir.

6 Q. You have the ability to make more phone  
7 calls; right?

8 A. Yes, sir.

9 Q. The ability to have more showers, more  
10 perks, to take classes, things like that; right?

11 A. Yes, sir.

12 Q. Which is basically the same thing that  
13 happened whenever you signed up to be a cooperator  
14 for the Government. When you signed up to help as a  
15 confidential informant, you got those type of  
16 benefits back, did you not?

17 A. Sure.

18 Q. Okay. Pizza parties? Got some of those?  
19 One?

20 A. Well, one, yeah.

21 Q. Got some money to put on your -- got some  
22 money to put on your -- \$750 to put on your  
23 commissary or on your phones; right?

24 A. Sure.

25 Q. Using -- or having the ability to continue

1 to have contact with your loved ones who are out at  
2 home or working or something is really a pretty big  
3 deal to you guys when you're in custody; right?

4 A. Yes, it is.

5 Q. I mean, to be able to have daily contact  
6 or unlimited contact to find out what's going on  
7 with your son, your daughter, your wife who is sick,  
8 how much you're charging for menudo, stuff like  
9 that, all that is really important to you guys;  
10 right?

11 A. Yes.

12 Q. And those phone calls get a little  
13 expensive, do they not?

14 A. Sure.

15 Q. The Securus system that the institution  
16 uses where you have to pay a certain amount of money  
17 for each phone call is pretty difficult for somebody  
18 who is in custody and whose family is trying to do  
19 everything to make ends meet as opposed to trying to  
20 help you out; right?

21 A. Sure.

22 Q. At some point in time I believe you  
23 said -- or even though you said you started  
24 cooperating immediately, you also pled not too long  
25 after that; right? In November of 2016. Is that

1 what --

2 A. Is that what it says on the paperwork?

3 Q. If we could put up 294, is that what it  
4 was? The plea agreement? I'm sorry, I should have  
5 told you that. Okay. Can you see that, Mr. Clark?  
6 November 15, 2016?

7 A. Yes, sir.

8 Q. If we can flip to the last page, if you  
9 don't mind, and see the signatures.

10 Okay. So you see your signature and your  
11 attorney's signature on there, do you not?

12 A. Yes, sir.

13 Q. Now, after November 15 of 2016, or even  
14 before that, you had been given more benefits by the  
15 Government because of your cooperation and now the  
16 fact that you had entered into this guilty plea; is  
17 that correct?

18 A. Yeah, sure. Not by the Government but by  
19 the institution, the Department of Corrections.

20 Q. The institution, because the Government --  
21 well, if you had some issue that you had to deal  
22 with, it's true, is it not, that you would contact  
23 your wife and have her call Bryan or to call one of  
24 the other members of the STIU, but mostly Bryan  
25 Acee; right?

1 A. Not necessarily. I talked more to Sapien,  
2 Sergio Sapien.

3 Q. You were allowed to have a pizza party,  
4 were you not?

5 A. Yes, we were.

6 Q. And you were also allowed to have contact  
7 visits, were you not?

8 A. Yes, I was.

9 Q. And there came a situation where you were  
10 eventually terminated by Mr. Acee, were you not,  
11 from being a confidential informant?

12 A. Sure.

13 Q. Do you know why you were terminated?

14 A. Yes. I was kissing and touching my  
15 girlfriend too much.

16 Q. Too much?

17 A. Through the whole visit.

18 Q. Well --

19 A. There was heavy petting involved.

20 Q. Heavy petting? Is that what you call it?

21 A. Sure.

22 Q. Well, it was one step short of having  
23 almost a full sexual act, was it not?

24 A. Sure. You could say that.

25 Q. Now, as a result, you know that that was

1 against the rules; right?

2 A. Yeah, I broke the rules.

3 Q. And as a result of that, you were taken  
4 off being an informant; right?

5 A. Yes, I was.

6 Q. You were not allowed to have any more  
7 money; is that right?

8 A. Yes, sure.

9 Q. And you were transferred to another  
10 facility, were you not?

11 A. Yes, I was.

12 Q. Now, you were not happy with that  
13 particular situation because you did not violate the  
14 rules as much as four or five of your cohorts; is  
15 that right?

16 A. I violated the rules. I mean, I wasn't  
17 happy because I got punished, but --

18 Q. But you got punished the same as the  
19 people --

20 A. I knew I got punished --

21 Q. You got punished the same as the people  
22 who had actual sex in those rooms with their  
23 children watching, did you not?

24 A. Yeah, I did.

25 Q. And they did that on more than one

1 occasion; right? But you got the same punishment.

2 MR. BECK: Objection, foundation and  
3 hearsay.

4 THE COURT: Well, lay some foundation how  
5 he knows this information.

6 MR. BLACKBURN: Okay.

7 BY MR. BLACKBURN:

8 Q. Well, you know that three or four other  
9 individuals, including Mr. Armenta and Mr. Rivera, I  
10 believe -- well, Mr. Armenta for one; right?

11 THE COURT: Why don't you find out if he  
12 knows from any sources other than people telling him  
13 that.

14 BY MR. BLACKBURN:

15 Q. You were aware that other people were also  
16 punished in the same way; is that correct?

17 A. Yes, I was.

18 Q. As a result, you were moved from that  
19 facility?

20 A. Yes.

21 Q. And there was concern about how that was  
22 going to affect your sentence with the judge; right?

23 A. Of course. I broke the rules, you know?  
24 I had to get punished. All right?

25 Q. So at the same time you were still

1 breaking the rules by using drugs, were you not?

2 A. Yes, I was.

3 Q. So that was another rule you were  
4 breaking. You didn't let the FBI know that, did  
5 you?

6 A. Yeah, I did. I told them.

7 Q. Who did you tell?

8 A. I told Bryan Acee I was doing drugs.

9 Q. And when did you tell him that?

10 A. When I told him about the computer.

11 Q. All right. But you had been doing drugs  
12 for a lot longer than before you told him; is that  
13 correct?

14 A. A couple months.

15 Q. And you and other people that were in the  
16 cooperating pod out at Sandoval County; correct?

17 A. Yes, sir.

18 Q. And who were some of the other individuals  
19 that you were with in that pod out there in Sandoval  
20 County?

21 A. Do you want me to name all of them?

22 Q. Well, who were the other cooperators? I  
23 mean, you had Jerry Armenta; right?

24 A. Jerry Armenta, Jerry Montoya, Ruben  
25 Hernandez, Gerald Archuleta.

1 Q. Paul?

2 A. Paul Rivera.

3 Q. Paul Rivera. What is his -- is he Oso?

4 A. Yes.

5 Q. All right.

6 A. Freddie Munoz and Timothy Martinez.

7 Q. All right. So all of you guys were in  
8 like one little area out there; right?

9 A. We had our own pod.

10 Q. You had your own pod. Did you have a  
11 nickname for that pod?

12 A. No.

13 Q. Okay.

14 A. D pod, I think.

15 Q. D pod. At some point in time you knew, as  
16 you just said, that that was going to -- because you  
17 broke the rules, you know that the Government is  
18 supposed to file a 5K for your cooperation; is that  
19 correct?

20 A. Yes, sir.

21 Q. All right. Now, you also know, when we  
22 looked at your plea agreement a while ago, that you  
23 pled to what you said was a life sentence; isn't  
24 that correct?

25 A. Yes, sir.



1 Q. But you knew that by reading your -- you  
2 knew that if you went to trial and you got  
3 convicted, you were looking at a life sentence, and  
4 if you pled, you were going to get a life sentence  
5 also; is that correct?

6 A. Yes, sir.

7 Q. So the only way that you, under the  
8 circumstances, could avoid a life sentence was to  
9 cooperate and hope that they would give you that 5K;  
10 isn't that correct?

11 A. I cooperated for my own reasons.

12 Q. All right. Well, you weren't going to  
13 give them something for nothing, were you?

14 A. I was hoping I would get something out of  
15 it.

16 Q. And you did. You got an opportunity to  
17 have -- for you to cooperate, testify, have them  
18 write a letter to this judge, or a motion with the  
19 judge, asking that the judge reward you for your  
20 cooperation in this case; right?

21 A. Yeah, sure.

22 Q. And you know that under the circumstances,  
23 that the only way your sentence can be reduced is if  
24 they filed that motion and the judge agrees with  
25 that; correct?

1 A. Yes, sir.

2 Q. All right. So you had sort of lost favor  
3 with the Government at the time because, one, you  
4 were doing drugs that was against the rules, and  
5 two, you had been kicked off of the cooperation  
6 program because of this issue that happened with the  
7 contact visit; correct?

8 A. Yes, sir.

9 Q. All right. But despite the fact that you  
10 all were -- knowing that you had broke the rules,  
11 that didn't prevent you from continuing to break the  
12 rules, did it?

13 A. What do you mean?

14 Q. All right. You had a tablet; right?

15 A. Sure.

16 Q. So you had a tablet, so that all of these  
17 documents that we're looking at in the courtroom  
18 today would be put on the tablet so you could look  
19 at them?

20 A. Sure.

21 Q. So you could see the photograph when you  
22 were arrested and you could see the photographs of  
23 everybody that was arrested, you could look at  
24 written documents. All of that information was on  
25 that tablet, was it not?

1 A. Yes, it was.

2 Q. So whenever we sit here and I tell  
3 Mr. Beck, looking at Bates No. 41944, that was a  
4 number that would be in that tablet, wasn't it?

5 A. Sure.

6 Q. So that everybody that you were in custody  
7 with had the ability to look at everybody else's  
8 statement, did they not?

9 A. Yes.

10 Q. And you could compare them, couldn't you?

11 A. Yes, sir.

12 Q. And you could go over and look at Timothy  
13 Martinez' and say, "Hey, that's not what -- you  
14 didn't tell me you said that"; right?

15 A. Sure.

16 Q. Or they could come over and tell you, "Why  
17 did you do this?" Is that correct? "Why did you  
18 make this statement here when it didn't happen?"

19 A. I don't know. I don't know if anybody  
20 told me that, but yeah, you could do that.

21 Q. You could do that. But you all got to  
22 share; right? Because all of you guys are together,  
23 all of the cooperators are together, hanging out in  
24 the same pod, and sort of at one point in time  
25 sharing each other's tablets; right?

1 A. No.

2 Q. Didn't share the tablets?

3 A. Yeah, we shared the tablets, but I mean,  
4 for the most part everybody is selfish, greedy, you  
5 know.

6 Q. Well, that selfishness and greediness was  
7 what, in the end, occurred for you to be able to  
8 pick up the phone or have your lawyers pick up the  
9 phone and call Mr. Acee to come out so that you  
10 could tell them what everybody else in the pod was  
11 doing; right?

12 A. No, I knew I was doing wrong, and before  
13 it got out of hand, I wanted Mr. Acee to know,  
14 "Look, man, I'm doing wrong. This is what I'm  
15 doing, and I'm going to stop. I'm letting you know  
16 what's going on."

17 Q. Well, you waited for about three months  
18 before you decided it got out of hand and called  
19 him, did you not?

20 A. About two months.

21 Q. Two months. And in that time when you  
22 were deciding whether it was out of hand, a majority  
23 of the individuals in that pod had figured out how  
24 to reset their tablets, wipe the tablets clean, and  
25 use Wi-Fi; right?

1 A. Yes, sir.

2 Q. And you could put games on there, could  
3 you not?

4 A. Yes, sir.

5 Q. You could download pornography on there?

6 A. Yes, sir.

7 Q. You could even, to the extent that you  
8 could create a G-mail address as Benjamin -- I don't  
9 remember what your -- what was your e-mail address;  
10 do you recall?

11 A. BenjaminCycClark, or something like that.

12 Q. BenjaminCycClark at G-mail dot com. So  
13 you didn't have worry too much afterward about using  
14 the phone. You could actually send emails to your  
15 wife; right? Or to your -- she's not your wife;  
16 she's your girlfriend; right?

17 A. Yes, sir.

18 Q. You call her your wife, do you not?

19 A. Sure.

20 Q. So that eliminates a lot of -- you don't  
21 have that money issue anymore. You don't have the  
22 money coming in from the FBI. What a better way  
23 just to send emails to them; right?

24 A. Yes.

25 Q. And you also were able to hook up your own

1 Facebook account; right?

2 A. Yes, I was.

3 Q. And to create -- post something and have  
4 people like you and send out photos and all that  
5 stuff; right?

6 A. I only had like three friends.

7 Q. Three friends? The other three guys in  
8 the pod with you, were they your friends?

9 A. No, just my girl, my mom, and my brother.

10 Q. Okay. Only those guys liked; right?  
11 Everybody had a Facebook account in there, did they  
12 not?

13 A. Yeah, sure.

14 Q. So you weren't friends with your own  
15 comrades in there?

16 A. No, I didn't want to be friends with my  
17 own comrades. I just wanted to talk to my family.

18 Q. All right. But after two months you had  
19 your lawyers -- you had your lawyers send an email  
20 to Mr. Acee to come out and meet with you guys;  
21 right?

22 A. Yes, sir.

23 Q. All right. And your lawyers and Mr. Acee  
24 came out, and you told them what was going on;  
25 correct?

1           A.    Yes, I told them I was messing up and I  
2 wanted to come clean about what was going on. I was  
3 trying to stay out of trouble.

4           Q.    You also ratted out everybody else in the  
5 pod, did you not?

6           A.    I just said we're all doing the same  
7 thing.

8           Q.    All right.

9           A.    I didn't go into specifics about  
10 everybody. I just laid out what was going on.

11          Q.    But you -- and you told Mr. Acee -- well,  
12 when you went to that meeting, you didn't take your  
13 tablet with you, did you?

14          A.    No, but can you bring up the statement  
15 that I said? Can you bring up the actual document  
16 that I gave -- that Mr. Acee put out? That's what I  
17 said.

18          Q.    What happened was, you told him, "I don't  
19 have my tablet here, but to show you what I can do,  
20 I'll send you an email tonight"; right?

21          A.    Mr. Acee asked me to send him an email,  
22 and I sent him an email.

23          Q.    So Mr. Acee asked you to send him an email  
24 and you did; right?

25          A.    Yes, sir.

1 Q. You also enlisted Jerry Armenta to do  
2 that, too; right?

3 A. Yes, I asked him.

4 Q. So you guys could show to him that you  
5 guys had manipulated these tablets so that you could  
6 use them for your own benefit; right?

7 A. Yes.

8 Q. All right. So as a result of that, you  
9 lost that privilege also, did you not?

10 A. Yes, I did.

11 Q. Now, you recall shortly after that  
12 occurred that you had one of these -- you decided  
13 that "I need to talk to them again, because I may  
14 have forgot something," as you said earlier on  
15 direct, and you had your lawyers set up another  
16 interview with the Government again; right? Or with  
17 Mr. Acee again, did you not?

18 A. I don't recall.

19 Q. Do you remember on August 30, 2016, having  
20 another debrief that was with Ms. Armijo,  
21 Mr. Castellano, Mr. Beck, and it was here in Las  
22 Cruces, and it was at your request to provide  
23 additional information?

24 A. What year was that?

25 Q. Well, it was about three months after the



1 issue with the tablets. So it was in August of  
2 2016. Would you like to see that?

3 A. I didn't have an interview with them in  
4 August of -- wait up. Hold up. I'm a little bit  
5 lost on the time lines here.

6 Q. Well, so am I.

7 MR. BLACKBURN: May I approach?

8 Q. Would this help you refresh your memory?

9 THE COURT: You may.

10 Q. All of this is occurring even before you  
11 were pleading, because we know you didn't plea until  
12 November of 2016; correct?

13 A. So we didn't get the tablets until 2017.

14 Q. 2017? Let me show you this particular  
15 document that we're talking about. So in August of  
16 2016 you asked that your lawyer set up another  
17 interview so you could give them some more  
18 information; correct?

19 A. Yes.

20 Q. And you're correct. The tablet situation  
21 was in 2017.

22 Now you stated, going back to the Fred  
23 Sanchez situation, that Kyle Dwyer delivered some  
24 paperwork down to the facility in Las Cruces;  
25 correct?

1 A. Yes, sir.

2 Q. Okay. And when he brought the paperwork  
3 down, as you were showing on the screen earlier,  
4 when you were looking at the photos of the pods, he  
5 was trying to pass that information or that  
6 paperwork to Ruben Hernandez; is that correct?

7 A. Yes.

8 Q. That was a no-no; right? That was against  
9 the rules, because that stuff was supposed to go to  
10 you; right?

11 A. I didn't want him to have it, so I stepped  
12 in and took it.

13 Q. But the rule was, as you said earlier,  
14 that everything that comes into that pod is supposed  
15 to be given to you because you're the one in charge  
16 in that pod; right?

17 A. Yes.

18 Q. All right. So when he comes down and he's  
19 passing that to -- there wasn't any meeting or  
20 anything like that, right, about, "Give us this  
21 here, give us here"?

22 A. No.

23 Q. All right. And you knew by looking at  
24 that and you discussed it, it had to do with some  
25 situation that happened in Roswell; right?

1 A. Yes.

2 Q. And you knew Fred Sanchez?

3 A. Yes, I did.

4 Q. You had known him for a number of years;  
5 right?

6 A. Yes, he was my friend.

7 Q. He was your friend. And you knew that as  
8 soon as that paperwork got there and Kyle Dwyer gave  
9 that paperwork and you passed it around, that that  
10 put a green light on him; is that correct?

11 A. Yes, sir.

12 Q. And despite that, you still, two months  
13 later, gave an order to Jesse Trujillo as to how you  
14 wanted this to go down; correct?

15 A. Yes.

16 Q. And it's only based upon what Mr. Dwyer  
17 said that you knew that supposedly this was given to  
18 you, sent down by Mr. Garcia; is that correct?

19 A. Yes, sir.

20 Q. All right. But you also know that  
21 paperwork can come down in a number of ways, like  
22 crooked COs; right?

23 A. Sure.

24 Q. It's not unusual for them to do something  
25 like that and give it to somebody and have it go

1 down; right?

2 A. No.

3 Q. You were not a witness to the issues that  
4 happened in that particular pod that day, were you?

5 A. No, I wasn't.

6 Q. Okay. And you continued to stay at the  
7 North facility -- or at the Southern facility for a  
8 few more months, did you not?

9 A. Yes, I did.

10 Q. And most of the individuals that were in  
11 that pod were taken back to Santa Fe, were they not?

12 A. Yes, sir.

13 Q. But as a result of that situation, you  
14 were written up by the administration, were you not?

15 A. Yes, I was.

16 Q. Okay. And they took away your good time?

17 A. Yes, they did.

18 Q. And they put you back in segregation  
19 again; right?

20 A. Yes, they did.

21 Q. And they inflicted mental distress upon  
22 you, did they not?

23 A. Yes, they did.

24 Q. And you obviously were not happy about  
25 that situation, were you?

1 A. Of course not.

2 Q. So you filed a series of writs of habeas  
3 corpus, did you not?

4 A. Yes, I did.

5 Q. And so the only relief that an inmate has  
6 on occasions from something that is discipline given  
7 to you by the administration is to go through the  
8 appeal process, and if you're not successful, you  
9 file a writ of habeas corpus; right?

10 A. Yes, sir.

11 Q. And you're asking a judge to say what  
12 these individuals are doing to me is wrong and I  
13 want my rights restored; right?

14 A. Sure.

15 Q. And first of all, you filed a couple of  
16 them in state court, did you not?

17 A. Sure, I filed a writ. I filed a writ of  
18 certiorari and then I filed with the federal courts.

19 Q. And when you went through that process and  
20 you lost, you filed the fed writ, did you not?

21 A. Yes, I did.

22 Q. And you swore under oath to the statements  
23 that you gave in that particular statement, didn't  
24 you?

25 A. No. I never made no statements on the --

1 on the habeas corpus. I was going off the papers  
2 that the CO supplied.

3 Q. Okay. Well, your argument was that you  
4 had been discriminated against because two unnamed  
5 informants were saying that you were involved in  
6 that; right?

7 A. Yes, sir.

8 Q. And you felt that that was unfair because  
9 they wouldn't disclose to you the informant but at  
10 the same time, what the informants said was not  
11 true, in your opinion; right?

12 A. It wasn't accurate.

13 Q. It wasn't accurate. And you asked that  
14 the discipline that the Department of Corrections  
15 gave you be overturned and that the 2,202 days of  
16 accumulated good time and the 365 days of good time  
17 for a total of 2,567 days were rewarded back to you;  
18 right?

19 A. Yes, sir.

20 Q. And you asked for compensatory damages for  
21 one dollar, did you not?

22 A. Sure.

23 Q. And you also asked for punitive damages in  
24 the amount of \$150,000 against each of the  
25 individuals that you listed, the five individuals

1 that you listed as defendants; right?

2 A. No, I don't remember that. I can't  
3 remember exactly what I filed. But on a writ of  
4 habeas corpus, you're not getting damages. The most  
5 you can get is -- the most you could do is just have  
6 them reput in something on -- against the Department  
7 of Corrections.

8 Q. So you did not ask that you be given  
9 punitive damages --

10 A. I might have. I just don't remember.

11 Q. Would you like to see?

12 A. Sure.

13 MR. BLACKBURN: May I approach, Your  
14 Honor?

15 THE COURT: You may.

16 A. I spent a lot of time on that, if I  
17 remember.

18 BY MR. BLACKBURN:

19 Q. Yes, there are multiple pages up there.  
20 You put a lot of work into this beast.

21 Okay, filed in United States District  
22 Court on January 18, 2012.

23 A. That was the federal.

24 Q. Yeah, the federal one. That's what I  
25 mean.

1           A.     I thought you were talking about the  
2 state.

3           Q.     Nah, you won't get any money out of the  
4 state. You want money out of the feds, don't you?

5           A.     Yeah.

6           Q.     Let's get the big bucks there. You sued  
7 the warden, another warden, the disciplinary  
8 officer, and the secretary of operation; is that  
9 correct?

10          A.     Sure.

11          Q.     And you ask over here on this particular  
12 page that you wanted all this good time be given  
13 back to you.

14          A.     Sure.

15          Q.     You wanted punitive damages in the amount  
16 of \$150,000 against each defendant.

17          A.     Yes, I did.

18          Q.     "And any additional relief that this Court  
19 deems just, proper, and equitable"; right?

20          A.     Sure.

21          Q.     And you signed it under oath, you declare  
22 under penalty of perjury that you are the plaintiff,  
23 you have read this complaint, and the information  
24 contained herein is true and correct, pursuant to 28  
25 USC Section 1746 and 18 USC Section 1621; right?



1 A. Sure.

2 Q. That's your name; right?

3 A. Sure.

4 Q. January 8, 2012; right?

5 A. Yes, sir.

6 Q. Now, do you remember that you told them in  
7 this habeas petition that you -- that you didn't  
8 even know -- you had no knowledge that Freddie  
9 Sanchez was in the Southern New Mexico Correctional  
10 Facility when the crime was committed or when the  
11 crime occurred, and you did not order the murder of  
12 Freddie Sanchez; is that correct?

13 A. I can't remember exactly what I wrote.

14 Q. Would you like to see it again?

15 A. Sure, I'd like to see it.

16 Q. Paragraph 6. Did you not say, "The  
17 petitioner" -- that's you; is that right?

18 A. Yes.

19 Q. -- "was in close custody segregation at  
20 the time of the murder, had no knowledge that Fred  
21 Sanchez was in the Southern New Mexico Correctional  
22 Facility when the crime occurred, and did not order  
23 the murder of Fred Sanchez."

24 A. Yeah.

25 Q. That was wrong. That wasn't true, was it?

1 A. No, that wasn't true.

2 Q. That wasn't true, and you're still trying  
3 to get \$150,000 in punitive damages against five  
4 individuals, over a million dollars, based upon  
5 false or perjured testimony?

6 A. When you're in the game, you play the  
7 game.

8 Q. Well, you just said a mouthful right  
9 there, Mr. Clark.

10 MR. BENJAMIN: Objection, Your Honor.

11 MR. BLACKBURN: I'm sorry.

12 THE COURT: Don't comment on it.

13 MR. BLACKBURN: I won't, Your Honor.

14 THE COURT: Sustained.

15 BY MR. BLACKBURN:

16 Q. Also, you indicated that based upon the  
17 fact that you had been in custody since 1997 and  
18 this happened in 2007, that what the Department of  
19 Corrections did to you at that time caused you to be  
20 diagnosed with psychiatric problems and general  
21 anxiety disorder and that you had faced a long term  
22 of problems based upon their actions. Do you  
23 remember that?

24 A. Yes, I do.

25 Q. But you already had all those psychiatric

1 problems before this happened in 2007 or 2012;  
2 right?

3 A. Yeah, some problems. But not general -- I  
4 wasn't diagnosed with general anxiety disorder until  
5 after that.

6 Q. Until after they stuck you here for so  
7 many days; right?

8 A. Yeah.

9 Q. You'd have felt a lot better if you'd have  
10 had that \$150,000 in punitive damages from those  
11 five people, so you could get you some treatment or  
12 some extra Suboxone; right?

13 A. Sure.

14 Q. When you say, "Sure," I just want to make  
15 sure the record is correct and we understand when  
16 you say, "Sure," you mean yes; right?

17 A. Yes, sir.

18 Q. You can say sure. I mean --

19 A. Yes, sir.

20 Q. Thank you. You indicated also, Mr. Clark,  
21 that the way that you communicated with Mr. Arturo  
22 Garcia was through the prison mail; right?

23 A. Some through the prison mail, some through  
24 the streets.

25 Q. But I think most of your testimony this

1 morning dealt with how you dealt with him through  
2 letters, because I think you even said in one of  
3 your debriefings Arturo writes all the time; right?

4 A. Yes.

5 Q. And you know all the time that the prison  
6 reads your mail constantly; right?

7 A. That's why we made codes.

8 Q. Right. But you do the mail, they collect  
9 the mail, and they have their own little unit up  
10 there that tries to decode your codes; right?

11 A. Yes.

12 Q. So they're always, like -- they're like  
13 the cops; they're just right behind you all the  
14 time, right, chasing you, so that they can break  
15 your codes; right?

16 A. Yes, sir.

17 Q. And they take all of those letters, do  
18 they not, and they put them in your STIU file, don't  
19 they?

20 A. Not every single one.

21 Q. No, I agree, not every one. That's a fair  
22 statement. But they put a lot of them in there, do  
23 they not?

24 A. I can't say what they do, because that's  
25 what they do, and I don't know what they do.

1 Q. All right. Well, you thought that under  
2 the circumstances that --

3 MR. BLACKBURN: May I have a just a  
4 second, Your Honor?

5 THE COURT: You may.

6 BY MR. BLACKBURN:

7 Q. Mr. Clark, one of the things that you  
8 indicated in your testimony, in your debriefing,  
9 that when you were dealing with the codes, you also  
10 had -- you would change your name or your -- so you  
11 wouldn't put Cyclone. That's what you go by; right?

12 A. Yes.

13 Q. You would change it to a different name;  
14 right?

15 A. Yes.

16 Q. And so the name that you decided to use  
17 was Shaq; right?

18 A. Yes, that was a name they gave me, yes.

19 Q. And that way, you could be able to see if  
20 you could fool or slide by the people that are  
21 reading your letters in the institution, meaning the  
22 STIU or the department; is that right?

23 A. Are you talking about a particular letter  
24 or just letters in general?

25 Q. In general.

1           A.     Letters in general, I would write them  
2 directly and write my name.

3           Q.     When you would write letters to your wife,  
4 you would put your name; right?

5           A.     Sure.

6           Q.     I'm sorry, with your significant other,  
7 you would put your name; right?

8           A.     Sure.

9           Q.     But at the same time, when you would write  
10 to somebody else, you would use Cyclone; right?

11          A.     Yes.

12          Q.     But you used Shaq on a few occasions  
13 because you were trying to get around the STIU  
14 finding out who you were; right?

15          A.     Yes.

16          Q.     All right. So that was sort of your  
17 secret code; right?

18          A.     Yes.

19                 MR. BLACKBURN: Could you pull up the  
20 first picture, 10263? I'll move the admission.

21                 MR. BECK: I do have an objection to it  
22 coming into evidence as an exhibit, but I don't have  
23 a problem with him using it for demonstrative  
24 purposes.

25                 THE COURT: Will that work?

1 MR. BLACKBURN: That's fine.

2 THE COURT: Do you want to identify it for  
3 the record?

4 MR. BLACKBURN: Yes, it is Bates number --  
5 out of the STIU file. It's Bates No. 10263. It's a  
6 picture.

7 THE COURT: All right.

8 BY MR. BLACKBURN:

9 Q. Okay. Who is that?

10 A. That's me, sir.

11 Q. Oops. They've got your name on there,  
12 Shaq; right?

13 A. Yes, sir.

14 Q. And your gang affiliation, so they know  
15 that you're Shaq; right?

16 A. After 2007, they knew I was Shaq.

17 Q. Well, let's go to picture number 10269.  
18 Actually, it's a report. Same thing there; right?

19 A. Yes.

20 Q. That's your number; right?

21 A. Yes, sir.

22 Q. 48387?

23 A. Yes, sir.

24 Q. And they've got your name there, Shaq;  
25 right?

1 A. Yes, sir.

2 Q. After you signed your plea agreement, you  
3 still -- and even though the Government sort of  
4 booted you off the cooperating program and took  
5 benefits away from you, you still continued to  
6 cooperate, did you not?

7 A. Yes, sir.

8 Q. All right. And you were concerned about  
9 how much time this case is taking, weren't you? You  
10 were upset that this case was taking too long  
11 because you wanted to go home; right? You  
12 repeatedly told your wife and others that you would  
13 be home by Christmas of 2016, didn't you?

14 A. Well, I thought I was going to be home by  
15 Christmas of 2016.

16 Q. So that was like a couple of months after  
17 you pled guilty, and you thought that you were going  
18 to go home in 2016?

19 A. I thought I had a chance to go home in  
20 2016.

21 Q. So that would have been -- based upon this  
22 life sentence that you were -- that you were, you  
23 know, facing, and the judge has the discretion, that  
24 you would have gotten a sentence of two months;  
25 right?



1 A. No, I was hoping my prison time was over.

2 Q. Your prison time as it relates to your  
3 other state sentence; right?

4 A. And I didn't know if I had a chance to get  
5 out.

6 Q. But those were big discussions about being  
7 home by December of 2016; right?

8 A. Yeah.

9 Q. Because you wanted to buy a new house;  
10 right?

11 A. Sure.

12 Q. And at the time you were still getting  
13 your money from the Government, weren't you?

14 A. I wasn't worried about money from the  
15 Government. I could do my own stuff.

16 Q. Then when you realized that you weren't  
17 going to get out and you realized that you broke the  
18 rules, you were telling your wife and your mom,  
19 well, that you thought that maybe you'd be home --  
20 it may be a couple years; right?

21 A. I don't know. I might have said that.

22 Q. Well, that's what you want; right?

23 A. Of course that's what I want. Who doesn't  
24 want that?

25 Q. Sure. And you'll do anything to get those

1 couple of years, won't you?

2 A. No.

3 Q. Okay. Well, you've always indicated that  
4 you want to be the top dog and you want to get  
5 what's right for you and what's right for your  
6 family. And you know that you have to put a  
7 performance on for these individuals in order to get  
8 them to write that letter; right?

9 A. I've got to tell the truth.

10 Q. Well, you've already got two or three  
11 strikes against you by breaking the rules on the  
12 contract that they set up for you, did they not?

13 A. Well, if I've got to do prison time, I've  
14 got to do prison. But I'll tell the truth.

15 Q. That's why, under the circumstances,  
16 Mr. Clark, every time after you were -- either lost  
17 your privileges because of the tablet or you lost  
18 your privileges because of the sex act that  
19 occurred, every time that you talked to the  
20 Government afterwards, things changed, did they not?

21 A. It got worse for me.

22 Q. It got worse for what you said to all the  
23 individuals in the 302s; isn't that right?

24 A. No.

25 Q. No. You never said anything about the --

1 on some of these issues that you talked to Mr. Beck  
2 on just before trial, did you not? Things changed;  
3 right?

4 A. I remembered things -- I mean, you don't  
5 remember everything in an interview setting, you  
6 know, and you could sit here and talk to me about  
7 something that happened five years ago, and there's  
8 details that are going to be left out, and then  
9 later on, "Oh, I forgot, I didn't put -- didn't tell  
10 them about this."

11 Q. But Mr. Clark, you have nothing but time  
12 on your hands.

13 A. Sure.

14 Q. Right? And you know, when you're going to  
15 go do these interviews, that it's important to tell  
16 the Government everything you know about what you're  
17 going to testify about. Everything you need to  
18 know. And there were just things like, oh, that was  
19 the first time I told them about this, or that was  
20 the first time I told them about that. I need to  
21 come back and tell you this because I forgot; right?

22 A. Sure.

23 Q. But it's true, is it not, that under the  
24 circumstances after you had these issues with the  
25 sex acts in Santa Fe, with your sexual contact, and

1 the loss of your tablet, by doing all of these  
2 things, setting up all these internet deals and  
3 Facebooks, that thereafter you met with them more  
4 and added a lot every time, did you not?

5 A. I had met with them twice. I met with  
6 Bryan Acee, and then I met with Beck before this  
7 trial.

8 Q. Okay. Well, you met with them four times  
9 before that, and you never told them this. But all  
10 of a sudden now, the last two times, you sound like  
11 you've got the money that you needed, and you had  
12 some treatment or something, and now you have all  
13 these memories of things that you never, ever, ever  
14 said before; isn't that correct?

15 A. No, that's not correct. I met with them  
16 two times before, and then I met with Bryan Acee,  
17 and then I met with Mr. Beck.

18 Q. All right. So let's go through this. You  
19 met with them on -- can you get this here?

20 A. April 2016, February.

21 Q. You met with them on April 2016, but you  
22 had met with them on December 3, 2015; right?

23 A. On December 3 we were being indicted.

24 Q. No, December 3 you were being picked up,  
25 and that was the first time you met Mr. Acee, when

1 you were with the other gentlemen that came to pick  
2 you up and take you down when you could get your  
3 picture. That was the first interview that you ever  
4 had with them; isn't that correct?

5 A. Well, it was greeting, more like.

6 Q. A greeting?

7 A. Well, we were talking about people  
8 cooperating with the Government.

9 Q. That was the time you were arrested. Let  
10 me ask the question. That was the time that you  
11 were arrested, on December 3, 2015, and that's when  
12 you were upset that Pup came in and you lost all of  
13 your power and you spoke to them. That was the  
14 first time you talked with them; right? We went  
15 through that 302; right?

16 A. Sure, we did.

17 Q. And then you remember talking to them in  
18 April of 2016, do you not?

19 A. Yes, I do.

20 Q. Then you talked with them again in August  
21 of 2016, did you not?

22 A. Yes, sir.

23 Q. Then you talked with them after you did  
24 your plea agreement in November, did you not? And  
25 then you talked with them --

1           A.     We didn't have a meeting in November after  
2 my plea agreement. I came down here to have my plea  
3 agreement and I went back to prison.

4           Q.     All right. Then you talked with them on  
5 April 6 of 2017 when you had the meeting with  
6 Mr. Acee to give him the discussion about the  
7 tablets, did you not?

8           A.     Yes, sir. I had two debriefs and then I  
9 talked to Mr. Acee about the tablet.

10          Q.     And then in the end, you met with them and  
11 your biggest, lengthiest, and the time that changed  
12 the most was when you met with them on March 20,  
13 2018, when you knew this trial was coming up in a  
14 week; isn't that correct?

15          A.     I just had additional information. He  
16 asked me if I remembered anything else, and I told  
17 him everything I remembered, you know? I mean, I've  
18 been thinking about this for months and months and  
19 years, and --

20          Q.     Well, you conveniently left out for the  
21 three -- for the number of times you had been at  
22 Sandoval County, you forgot to tell him until -- the  
23 Government and Mr. Acee, you forgot to tell them  
24 that you had a shank while you were in federal  
25 custody in your possession. You had never told that

1 until that day; right?

2 A. I told Mr. Acee that, that, when I talked  
3 to him in April.

4 Q. In April of 2016?

5 A. Yes, I did.

6 Q. Had you already told him before that there  
7 were drugs that were coming in there, such as  
8 Suboxone, heroin, methamphetamine, and marijuana,  
9 and that you were a drug user? You had told him  
10 that before?

11 A. I told him at that point.

12 Q. Okay. So that was something new; right?  
13 And that was the first time that you admitted to  
14 helping other cooperators get drugs into the  
15 facility, and you did it by -- you remember the time  
16 that the drugs got stuck under the door; right?

17 A. Yes.

18 Q. That was the first time you told him that;  
19 right?

20 A. Yes.

21 Q. And on that particular date, the biggest  
22 change in conversation you had and the concentration  
23 on that date was your relationship with Arturo  
24 Garcia; right? That's when you went into great  
25 depth; right?

1 A. Yes.

2 Q. The first time?

3 A. The first time about our relationship,  
4 yes.

5 MR. BLACKBURN: Thank you. I'll pass the  
6 witness.

7 THE COURT: Thank you, Mr. Blackburn.

8 Mr. Castle, do you want to go next?

9 MR. BURKE: Thank you for the compliment,  
10 Your Honor.

11 CROSS-EXAMINATION

12 BY MR. BURKE:

13 Q. Mr. Clark, I would like to begin, in a  
14 way, where Mr. Blackburn left off, and I want to ask  
15 you about the letter that was discussed to Arturo,  
16 that was discussed already by both people. But I'd  
17 like to have you explain it to the jury.

18 A. All right.

19 MR. BURKE: May I approach, Your Honor?

20 THE COURT: You may.

21 MR. BECK: Mr. Burke.

22 BY MR. BURKE:

23 Q. I can read most of this, but not all of  
24 it. So would you mind reading it to the jury?

25 A. Sure.



1 MR. BECK: Your Honor, I'm going to object  
2 to hearsay.

3 THE COURT: All right. I don't know what  
4 the document is.

5 MR. BURKE: Your Honor, these are his own  
6 words in his own hand. They've been described. So  
7 it would be best if the jury knew exactly what the  
8 words were.

9 THE COURT: I think if they're being  
10 offered for the truth of the matter, then sustained.

11 MR. BURKE: They're being offered to show  
12 how it was that he was taken out of the pod and not  
13 in the pod when Mr. Sanchez was brought into the  
14 pod.

15 THE COURT: That sounds --

16 MR. BURKE: They're not being offered just  
17 for the truth of the matter asserted.

18 THE COURT: It sounds like they are.  
19 Sustained.

20 MR. BURKE: Your Honor, may we approach?

21 THE COURT: You may.

22 (The following proceedings were held at  
23 the bench.)

24 MR. BURKE: Your Honor, this is his letter  
25 that got him roused out of the cell. The jury gets

1 to know the context, why he was taken out of his  
2 cell and the pod. And he's acknowledged that it's  
3 his. I don't want to read it to him.

4 THE COURT: Well, but he can't read it  
5 either. I mean, it's just --

6 MR. BURKE: Why can't he?

7 THE COURT: Well, it's an out-of-court  
8 statement being offered for the truth of the matter.

9 MR. BURKE: I think this is a  
10 truth-seeking function here. I really don't  
11 understand. These are his words in his hand that  
12 the jury need to understand, yes, he was taken out  
13 of the cell. I'm really not being argumentative.  
14 Maybe I am, but...

15 THE COURT: This is hearsay. If you want  
16 to -- if you, you know, impeach him with it, but  
17 right now he hasn't denied anything that I can see  
18 to impeach.

19 MR. BURKE: Let me make another try. He  
20 has said -- he has made up some story about how it  
21 was sent out and then sent back in, but this was  
22 seized by the SIS. So that was a little fib that he  
23 told, so I should be able to impeach him.

24 THE COURT: I think those are facts.

25 MR. BURKE: But I think it's best if we

1 just let the jury hear what the words were.

2 THE COURT: Well, I think we better follow  
3 the rules, and it's an out-of-court statement being  
4 offered for the truth. Sustained.

5 (The following proceedings were held in  
6 open court.)

7 THE COURT: All right. Let's take our  
8 second morning break. We're going to work through  
9 the lunch hour and we'll take a late lunch.

10 All rise..

11 (The jury left the courtroom.)

12 THE COURT: All right. We'll be in recess  
13 for about 15 minutes.

14 (The Court stood in recess.)

15 THE COURT: All right. I think we've got  
16 all the defendants, an attorney for each defendant.  
17 Let's come to order.

18 Looking at your letter, the two sentences  
19 you want, the first sentence looks to me like a  
20 command, so it wouldn't be hearsay. The second  
21 looks like his planned state of mind. That's not  
22 hearsay. So I think you can ask these questions.

23 MR. BURKE: Thank you very much, Your  
24 Honor.

25 THE COURT: You can have him read it if

1 you want to.

2 All rise.

3 (The jury entered the courtroom.)

4 THE COURT: All right. Everyone be  
5 seated.

6 All right, Mr. Clark, I'll remind you that  
7 you're still under oath.

8 THE WITNESS: Yes, sir.

9 THE COURT: Mr. Burke, if you wish to  
10 continue your cross-examination of Mr. Clark, you  
11 may do so at this time.

12 MR. BURKE: Thank you, Your Honor.

13 BY MR. BURKE:

14 Q. Mr. Clark, in that letter you did say,  
15 "Send me message by the code if you want someone  
16 gone"; correct?

17 A. Yes, sir.

18 Q. And that is the letter that had been  
19 seized by STIU a couple of days before?

20 A. Yes, sir.

21 Q. All right. And then you said, "Our code  
22 will be how is" and you actually have a parents and a  
23 name and, "how is he doing"; is that correct?

24 A. Yes, sir.

25 Q. Let me just ask you a couple more

1 questions about this letter. You say in the letter,  
2 "Send me message by the code," and this is a letter  
3 apparently that you believe was to go to Arturo  
4 Garcia; right?

5 A. Yes, sir.

6 Q. But it was intercepted, so Arturo Garcia,  
7 who I do not represent -- but he would not have  
8 received this letter?

9 A. His wife sent it in the mail.

10 Q. No, but see, if it was seized by STIU,  
11 then it wouldn't have gotten off-site away from the  
12 prison; correct?

13 A. It didn't get sent out from Southern New  
14 Mexico Correctional Facility. It was sent out from  
15 the streets to Art Arturo's wife, who then sent it  
16 into the North facility, where it was seized.

17 Q. I'm sorry, what were the circumstances of  
18 this letter being seized, then?

19 A. My friend, Bobcat, Ernest Tillerson, went  
20 home. I gave him the letter --

21 Q. I'm sorry for interrupting, but you gave  
22 him the letter during a visit?

23 A. No, he was in the pod with me. He lived  
24 in the pod with me. He went home from prison. He  
25 took the letter with him and mailed to it Arturo's

1 wife. Arturo's wife --

2 Q. Were you told this?

3 A. I know this has happened, because I'm the  
4 one that made it happen.

5 Q. I know. But I'm asking if you know it  
6 because you were told that?

7 A. No, we got busted when the letter got sent  
8 into the North facility where Arturo was at.

9 Q. Okay. And this is the first time that  
10 that explanation has been given to any of us.

11 A. No, it's not.

12 Q. Who did you tell this to?

13 A. I told it to Mr. Beck. I think I told it  
14 in the debrief, as well. I'm pretty sure I did.

15 Q. You know, that's so funny, because when I  
16 showed this letter to Mr. Beck, he said that he had  
17 not seen it before.

18 A. I don't know. But I know I talked about  
19 it.

20 Q. All right. And the first time that you  
21 actually spoke about this incident was actually  
22 right after it happened. Do you remember when there  
23 were the pod interviews and they came to everybody,  
24 including you, even though you were no longer in the  
25 pod?

1 A. Sure.

2 Q. And even that very first time that you  
3 spoke, do you remember saying, "You guys created a  
4 powder keg by putting all the SNM in one unit."

5 I'm sorry, 1530. Discovery 1530.

6 Does that sound right to you?

7 A. Yes, sir, I did say that.

8 Q. All right. And you didn't mention  
9 anything about paperwork or any of that sort of  
10 thing?

11 A. No, sir, I didn't.

12 Q. And that is -- that's what you believed at  
13 the time, they had created a powder keg?

14 A. Yes, I did. That's what I believed.

15 Q. Because they had all the SNM guys in one  
16 unit, three pods?

17 A. Yes, sir.

18 Q. Thank you.

19 Now I wanted to follow up on some  
20 questions about the habeas corpus, as well. Would  
21 it refresh your memory to see your signature on a  
22 verification so that you would know you actually did  
23 write out some facts, some facts, and verify them?

24 A. Yeah, sure, if I could see the facts and  
25 the signature.

1 MR. BECK: Mr. Burke?

2 THE COURT: Mr. Burke, do you want to show  
3 it to Mr. Beck?

4 MR. BURKE: Oh, it's the same.

5 BY MR. BURKE:

6 Q. Is that your signature?

7 A. Yes, sir, it is.

8 Q. I'm going to go back there and then ask  
9 you some questions about this, unless you'd like me  
10 to ask you from here.

11 A. Yeah, it would be easier, so I can see.

12 Q. You really were offended that they were  
13 taking away all of this good time based on  
14 confidential information?

15 A. Yes, I was.

16 Q. And you felt that was a due process  
17 violation and an equal protection violation?

18 A. Yes, sir, I did.

19 Q. All right. Would it be bad to have things  
20 taken away from you based on what informants say?

21 A. Sure.

22 Q. All right. And they took away all of the  
23 petitioner's good time and they put in disciplinary  
24 segregation.

25 A. Yes, sir.



1 Q. And it's true that that is worse, harder  
2 than ordinary prison life?

3 A. That's a significant hardship compared to  
4 prison life.

5 Q. And that's why when Mr. Blackburn was  
6 asking you questions about seeing your family and  
7 getting some tier time and having some money on the  
8 books, that's not nothing. That's something.

9 A. That's all you got in prison.

10 Q. And then the facts -- I'm going to get  
11 around to asking you about that.

12 A. Yes, sir.

13 Q. So you stated there, you know, under oath,  
14 "Petitioner never having any knowledge that Fred  
15 Sanchez was at Southern."

16 A. The knowledge -- I was using the way the  
17 system ran at the time. And it showed that I was in  
18 segregation on that day that he showed up.

19 Q. You actually went over to the infirmary  
20 for a bit, didn't you?

21 A. Yes, sir, I did.

22 Q. And then "Due to these fatal errors  
23 petitioner was used as a scapegoat."

24 A. Yes, sir.

25 Q. All right. And that's how you feel?

1 A. At the time that's how I felt.

2 Q. Okay. Thank you.

3 How close to finishing your sentence in  
4 2007 were you, if you hadn't been caught up in this?

5 A. Somewhere around 2010, 2011, I should have  
6 been out.

7 Q. And so they took away, like, five years,  
8 right?

9 A. Yeah, five years plus the year I lost on  
10 segregation.

11 Q. Where you don't get good time?

12 A. Yes. About six years total.

13 Q. Six years. So based on the testimony of  
14 informants, you basically lost six years of freedom?

15 A. Yes.

16 Q. All right. I'm going to switch subjects a  
17 little bit.

18 On Fred Sanchez, I want to talk about the  
19 paperwork just a little bit. You hadn't seen this  
20 in the discovery before, but it's now your memory --  
21 maybe it was; I didn't see it -- there was a  
22 specific case referred to in the discovery where  
23 Fred Sanchez was alleged to have thumped somebody or  
24 beaten some young lady, and he said, "It wasn't me.  
25 It was Kiko or somebody else"; correct?

1 A. Yes, sir.

2 Q. All right. And that was an active case  
3 that we could find, maybe, if it existed?

4 A. Yes, sir. It does exist. He got a lot of  
5 time for it.

6 Q. And Ruben Hernandez -- he actually had the  
7 paperwork in his hands, and I'm getting the  
8 impression that you kind of grabbed it away from him  
9 and said, "Not you, bub. I got it."

10 A. Yes, sir.

11 Q. All right. And then as far as orientation  
12 goes you would have expected -- I mean, you actually  
13 said, "Three days' orientation is the rule"?

14 A. Yes, sir.

15 Q. So if Mr. Sanchez arrived, he would be  
16 three days in orientation; correct?

17 A. Should have been, yes.

18 Q. What's the reason for that?

19 A. Just to see how he gets along in the pod.

20 Q. Mr. Blackburn asked you about your  
21 original statement on the day of your arrest,  
22 December 3, 2015, and I want to ask you a couple of  
23 questions about that, as well. Do you recall saying  
24 that you were upset when Sanchez was killed? SNM  
25 members would come to you and you said, "I don't

1 want to know about it. Don't talk to me."

2 A. I would tell them that, and they would  
3 still tell me everything.

4 Q. Okay. I see. But in here, December 3,  
5 2015, you don't mention a single statement that  
6 Mr. Troup allegedly made to you?

7 A. I wanted to see what the FBI was going to  
8 do with me at that time, because I was at war with  
9 the SNM. I dropped out. They were going to kill  
10 me, you know. And I wanted to see if they are going  
11 to protect me from death or if I was going to be  
12 thrown in with the dogs and have to fight for my  
13 life.

14 Q. And yet here's a statement where you said,  
15 "Clark, along with the other members, said they  
16 didn't know anything but Robert" -- and I think you  
17 must have meant Ruben --

18 MR. BECK: Objection, Your Honor, to  
19 hearsay.

20 Q. Did you say, "Two members, Robert  
21 Hernandez and Lorenzo, last name unknown" --

22 MR. BECK: Objection, Your Honor.

23 THE COURT: What are you reading out of,  
24 Mr. Burke?

25 MR. BURKE: I'm sorry. 1577, December 3.

1 THE COURT: Why don't you bring it to me  
2 so I can see what this is?

3 (The following proceedings were held at  
4 the bench.)

5 THE COURT: What statement?

6 MR. BURKE: The last thing where he says  
7 that he's got two names there, I think it should be  
8 Ruben Hernandez.

9 THE COURT: What statement are you trying  
10 to impeach?

11 MR. BURKE: That he knew they may have  
12 been informants.

13 THE COURT: What did he testify? What was  
14 the statement that he said?

15 MR. BURKE: He said -- I believe he said  
16 no one said anything, but here he is knowing about  
17 two informants. That's the only thing I want to  
18 ask.

19 THE COURT: Do you have any argument that  
20 it's not impeachable?

21 MR. BECK: Yeah, I don't think he's  
22 testified inconsistently. I think he can ask, I  
23 think, you know, that two members were making  
24 statements.

25 THE COURT: Try. See if he gives it to

1 you. If he does, then we'll move on. If he  
2 doesn't, I'll probably let you impeach him.

3 MR. BURKE: Okay.

4 (The following proceedings were held in  
5 open court.)

6 THE COURT: All right, Mr. Burke.

7 MR. BURKE: Thank you, Your Honor.

8 BY MR. BURKE:

9 Q. Mr. Clark, you had heard, even as of then,  
10 that Ruben Hernandez and Lorenzo Torres might be  
11 making statements; correct?

12 A. I did say that -- I believe I said that.  
13 I might have.

14 Q. All right. And the truth is -- or maybe I  
15 should put it differently. You really afterwards  
16 didn't want to know anything about what happened  
17 with Fred Sanchez, did you?

18 A. I didn't want to know anything about any  
19 of the murders I know about.

20 Q. Yeah, but in real life. Not just in the  
21 informant world, after this happened, you're put in  
22 segregation, and you weren't there when it happened.  
23 You would have preferred to have nothing to do with  
24 this; right?

25 A. Yes, I would have.

1 Q. And it felt wrong to you that here you  
2 were, pulled out on the basis of a letter, and you  
3 didn't have anything to do with the crime itself;  
4 right?

5 A. Yes.

6 Q. And then not only did you not have  
7 something to do with the crime itself; you kind of  
8 tried to prevent it, didn't you?

9 A. Yes, sir.

10 Q. And the way you were trying to prevent it  
11 was by assigning it, according to your testimony  
12 today, through Jesse Trujillo to Ruben Bolo  
13 Hernandez and Raymond Cheeks Rascon; correct?

14 A. Yes.

15 Q. And that was your way to protect your  
16 friend?

17 A. Yes.

18 Q. And you knew -- at least you testified  
19 that you knew, and it makes sense, that the  
20 paperwork had circulated in to you, yellow, then in  
21 to green, and made its way back, and it had been  
22 destroyed.

23 A. I circulated it, yes.

24 Q. Well, you shoved it under the door. You  
25 didn't really know what happened after that, but

1 you're make an educated guess; right?

2 A. Yes, sir.

3 Q. And it comes back, and you're sitting  
4 there going, This whole unit is thinking this guy  
5 who is coming here is a snitch, but you didn't want  
6 it to happen.

7 A. That's correct.

8 Q. So you intervened with your own passing of  
9 the paperwork in a way. You tried to stop it;  
10 right?

11 A. At that point he wasn't there. I was  
12 doing my job as an SNM Gang member.

13 Q. Oh, I know. But you were trying to stop  
14 it by assigning it to people who wouldn't do it;  
15 right?

16 A. Yes.

17 Q. And what happened are things that happened  
18 afterwards; right?

19 A. Yes.

20 Q. All right. I'll come back to that.

21 You mentioned on direct examination the  
22 conversation that you allegedly had with Mr. Troup  
23 and Eugene Martinez in Jurassic Park in 2004?

24 A. Yes, sir.

25 Q. Do you remember saying during the initial



1 interview about that, "On April 12, 2016, when Troup  
2 saw Patterson enter the room to help, Troup went  
3 down to the doorway of Garza's cell." Do you  
4 remember saying that?

5 A. I don't really remember saying that.

6 Q. Would you like to see this?

7 A. Sure. Okay.

8 Q. You said --

9 MR. SHATTUCK: Your Honor, excuse me. We  
10 would ask for a limiting instruction on that  
11 question.

12 THE COURT: Any objection, Mr. Beck?

13 MR. BECK: I don't think that it's being  
14 offered for the truth of the matter.

15 THE COURT: I don't think it's being  
16 offered for the truth, either; it's just being  
17 offered to impeach a statement that he made earlier.  
18 So I think it's not coming in for the truth. So the  
19 jury will be aware of that. We'll talk about that  
20 in closing, and I can instruct them now that it's  
21 not coming in for the truth; it's coming in to  
22 determine whether Mr. Clark is telling the truth on  
23 the stand today. So I'll deny the limiting  
24 instruction, other than the one that I just gave.

25

1 BY MR. BURKE:

2 Q. I'm going to go over it again, Mr. Clark.  
3 "When Troup saw Patterson entering the room to help,  
4 Troup went down to the doorway of Garza's cell.  
5 Troup closed the door so that no one would see what  
6 was occurring inside. Troup remained by the door  
7 keeping watch. Troup told Clark that Looney, Garza,  
8 almost got away." Do you remember that?

9 A. I remember saying that.

10 Q. Do you remember that?

11 A. Yeah, I remember.

12 Q. You were trying to put Edward Troup into  
13 the Garza homicide?

14 A. We were talking for hours at that point.  
15 I was a little confused.

16 Q. You were a little confused?

17 A. Yes.

18 Q. You were trying to put Edward Troup into  
19 the Garza homicide, weren't you?

20 A. No, we talked about these homicides.

21 Q. You have some college, don't you?

22 A. A little bit.

23 Q. You're certainly not an unintelligent  
24 person. You know full well, don't you, Mr. Clark,  
25 that a person's memory is most acute and it's best

1 closer to the incident; true?

2 A. Closer to the incident when it happened?

3 Q. Yes, sir.

4 A. Yes.

5 Q. People's memories do not improve over  
6 time, do they?

7 A. No, sir.

8 Q. And this would be -- you've had some drug  
9 issues; right?

10 A. Sure.

11 Q. And I think you even take some  
12 psychotropic medication from time to time; right?

13 A. Yes, sir.

14 Q. And your memory is not just going to get  
15 better over time, is it?

16 A. No, sir.

17 Q. You tried to put Edward Troup in the Garza  
18 homicide, didn't you?

19 A. We talked about the murders that happened.  
20 Me, Eugene, and Troup. And I remember what happened  
21 and --

22 Q. Mr. Clark, even when you pled, you were  
23 adamant that you had no role other than passing  
24 paperwork.

25 A. True.

1 Q. You were very adamant.

2 A. Yes, sir.

3 Q. And you did not say that you ever had  
4 another role?

5 A. Well, I did. I said I was the facilitator  
6 of what was going on in that facility.

7 Q. And when you entered your plea, you  
8 remember taking an oath and being in front of the  
9 judge and saying what happened; right?

10 A. Yes, sir.

11 Q. And when you did that, you said -- you  
12 made no statements about -- other than the general  
13 statement about passing paperwork, you didn't have  
14 any details about what happened, did you?

15 A. About what happened to them in the murder?

16 Q. Yes.

17 A. I did give details in my statement.

18 Q. We'll talk about that in a second. I need  
19 to ask you some questions. Since you've been  
20 incarcerated after the plea, you've had Suboxone,  
21 meth and heroin?

22 A. Not every day. I've tried meth one time.  
23 That was the first time I've ever done it.

24 Q. And Suboxone and heroin is available to  
25 you guys in the informants' pod?

1           A.    It's available to everybody who's  
2 incarcerated.

3           Q.    I don't get that.  Is that available  
4 through the family?

5           A.    It's available from people that come in  
6 from the streets.  People send in mail.  And if you  
7 got money, you could buy it.

8           Q.    Put stamps or commissary or --

9           A.    Legal mail, books, regular mail.  You hide  
10 it in the letter.

11          Q.    When was the last time you had any drugs?

12          A.    That was in Otero County at the time, I  
13 believe.

14          Q.    And do you take any prescribed drugs now?

15          A.    Yes, I do.

16          Q.    What's that?

17          A.    Buspar.

18          Q.    And what's that for?

19          A.    Anxiety.

20          Q.    Do you remember the presentence  
21 investigation?  You probably remember that.

22          A.    Sure, I do.

23          Q.    And you again stated that the  
24 administration --

25               MR. BECK:  Objection, Your Honor.

1 Hearsay.

2 MR. BURKE: I'll reword it, Your Honor.

3 THE COURT: All right.

4 BY MR. BURKE:

5 Q. Even long after the plea, you were still  
6 very emphatic, aren't you, even now, about the  
7 administration creating the dangerous situation that  
8 occurred; right?

9 A. Yes, sir.

10 Q. How did they do that?

11 A. Well, they put known informants with the  
12 guys, with us, and they wait for us to find out, and  
13 we always do the same thing: We kill them.

14 Q. Do you feel like the administration set up  
15 Fred Sanchez?

16 A. Yeah, I do.

17 Q. Do you feel that they're just as  
18 responsible as anybody else for the death of Fred  
19 Sanchez?

20 A. Yes, I do.

21 Q. And is this a pattern of the Corrections  
22 Department?

23 A. Yes, it is.

24 Q. And is what they're doing isolating SNM  
25 people until finally there's none left because they

1 just kill each other off?

2 A. I don't know. I can't say that, but --

3 Q. You don't want to go that far. But it  
4 seems to be a pattern?

5 A. Sure.

6 Q. Do you see or have any communication with  
7 Javier Alonso?

8 A. No.

9 Q. When was the last time you saw him?

10 A. In Sandoval County.

11 Q. Okay. So a while ago?

12 A. Yeah.

13 Q. But your understanding is that Javier  
14 Alonso grabbed Sanchez from behind and stood on his  
15 back strangling him?

16 A. Threw him on the floor, wrapped the  
17 guillotine around his neck, stood on his back,  
18 pulling up -- slamming his head into the ground just  
19 like he told me he did.

20 Q. And then it's your understanding that it  
21 was Jesse Trujillo who cleaned up the cell and found  
22 the cord and trashed it or got rid of it somehow?

23 A. We called Jesse Trujillo HazMat because he  
24 cleaned up all the messes.

25 Q. And it's your memory or your belief that

1 Jesse Trujillo cleaned up after what Javier Alonso  
2 did?

3 A. He went in there, swept and mopped and  
4 flushed the toilet.

5 Q. All right. I do want to ask you about  
6 that phone call where you said, just a year before  
7 last, where you thought you were going to get out by  
8 Christmastime; do you remember that?

9 A. Sure.

10 Q. And I understand what you said, when  
11 you're in the game you play the game and all of  
12 that. But I'm trying to figure out what it is  
13 you're hoping to get out of things like putting  
14 Edward Troup on the Garza homicide. What are you  
15 hoping to get, sir?

16 A. Look, we talked about the double homicide.

17 Q. No, my question is: What are you hoping  
18 to get?

19 MR. BECK: Objection, Your Honor.

20 THE COURT: I'll let Mr. Burke control the  
21 witness. Overruled.

22 BY MR. BURKE:

23 Q. Why are you doing this? I mean, why are  
24 you pleading -- why did you plead to a crime that  
25 you didn't commit because you had set up a situation



1 where it wouldn't happen? What are you hoping to  
2 get? Are you hoping to get --

3 MR. BECK: Objection, Your Honor.  
4 Misstates the evidence.

5 THE COURT: Overruled.

6 BY MR. BURKE:

7 Q. Is it because you want to go to a federal  
8 facility?

9 A. I mean, I'm hoping to get a better  
10 sentence. But we're guilty of the crimes that we  
11 did. We're murderers. SNM are murderers.

12 Q. Speak for yourself, please.

13 A. I'll speak for -- I'm telling you what SNM  
14 does.

15 Q. I'm really asking you about you,  
16 Mr. Clark. Do you feel bad that you stabbed so many  
17 people over the years, and you just want to come  
18 clean? Is that why you're doing this?

19 A. I'm tired of seeing people die.

20 Q. You're tired of what?

21 A. Seeing people die. I'm tired of watching  
22 my friends kill my friends. You know, I mean --

23 Q. Do you want to spend, like, the rest of  
24 your life in federal custody?

25 A. If I have to spend the rest of my life in

1 federal custody, I have to spend the rest of my life  
2 in federal custody.

3 Q. But you're hoping to get home by  
4 Christmas?

5 A. I'm hoping for a better sentence, but if I  
6 have to spend my life in prison, I'll spend my life  
7 in prison.

8 MR. BURKE: That's all I have.

9 THE COURT: Thank you, Mr. Burke.

10 Anyone else have cross-examination of Mr.  
11 Clark?

12 Mr. Granberg.

13 CROSS-EXAMINATION

14 BY MR. GRANBERG:

15 Q. Mr. Clark, what is your moniker? What is  
16 your moniker? What is your nickname?

17 A. Cyclone.

18 Q. How did you get that?

19 A. I got it in my neighborhood, my gang.

20 Q. When you were a child?

21 A. Yes, sir.

22 Q. Let's go back to that. Back in 1996 you  
23 committed about five armed robberies; is that right?

24 A. Yes, sir.

25 Q. And on one of the armed robberies, you

1 went into a convenience store armed with a knife and  
2 you stole from the convenience store clerk?

3 MR. BECK: Objection, Your Honor.

4 THE COURT: Sustained.

5 BY MR. GRANBERG:

6 Q. So you pled to that charge; correct?

7 A. Yes, sir, I did.

8 Q. And you received 27 years?

9 A. Yes, sir, I did.

10 Q. But before you pled, you absconded to Los  
11 Angeles; is that right? You ran to Los Angeles?

12 A. Sure.

13 Q. And in Los Angeles, you were charged with  
14 a robbery there, as well, weren't you?

15 A. It got dismissed. It was a street fight.

16 Q. But while you were in Los Angeles, you're  
17 charged with robbery. Then they extradited you back  
18 to New Mexico; is that right?

19 A. Sure. The charges got dismissed because  
20 it was a street fight.

21 Q. Okay. And next you came back to Las  
22 Cruces and you pled to 27 years with two years of  
23 parole at the end; right?

24 A. Yes, sir.

25 Q. And then in March 2014, you were also

1 charged in possession of a shank; is that correct?

2 A. Sure.

3 Q. And that was here in Las Cruces?

4 A. Yes, sir.

5 Q. What is a shank?

6 A. It's a knife.

7 Q. And what is the purpose of having a shank?

8 A. To stab somebody.

9 Q. To kill someone?

10 A. Sure.

11 Q. And then on May 29, 2014, you assaulted  
12 another inmate named Jose Maldonado; is that  
13 correct?

14 A. Yes, sir, I did.

15 Q. Did you receive any sort of penalties when  
16 you assaulted him?

17 A. I went to the Seg.

18 Q. Okay. And then on December 3, 2015, you  
19 were arrested for this case; is that correct?

20 A. Yes, sir.

21 Q. And when you were arrested, where were you  
22 housed for the next few months?

23 A. I was housed initially in here in Otero,  
24 and then they moved me to Western. I stayed in  
25 Western New Mexico Correctional Facility for three

1 or four months, five months.

2 Q. And were you housed with other SNM  
3 members?

4 A. Sure.

5 Q. Do you remember who you were housed with?

6 A. Jerry Armenta, Robert Martinez, Frederico  
7 Munoz, Eric Duran, and Joe Fred Quintana.

8 Q. And Joe Quintana or Fred Quintana -- all  
9 those names you just listed are cooperators in this  
10 case; isn't that right?

11 A. Yes, sir.

12 Q. Now, your arrest in 2015 stemmed from the  
13 2000 (sic) murder of Fred Sanchez; right?

14 A. Yes, sir.

15 Q. And in your own plea agreement, in your  
16 own words, you pled guilty to -- you aided and  
17 abetted the murder by passing the paperwork  
18 resulting in his murder; right?

19 A. Yes, sir.

20 Q. You pled guilty on November 15, 2016.  
21 Does that sound correct to you?

22 A. Yeah, that sounds correct. It was on the  
23 paperwork.

24 Q. Like we mentioned before, you've entered  
25 into a plea agreement in this case, and you're

1 expecting to receive some sort of benefit at the  
2 end; correct?

3 A. Yes, sir.

4 Q. Now, would it be fair to say that the  
5 greater your assistance that you give to the  
6 Government, the greater the 5K reward you get?

7 A. I don't know how none of that works, you  
8 know. I'm doing what I'm doing.

9 Q. But if you don't cooperate, you get zero;  
10 right?

11 A. I'm doing what I'm doing for me.

12 Q. You're doing what you're doing for you, so  
13 you can get the most personal gain you can get out  
14 of this; correct?

15 A. It's not about gain. It's about making  
16 things right.

17 Q. Are you doing this for free?

18 A. If that's what it costs, that's what it  
19 costs.

20 Q. But you're expecting something out of  
21 this, aren't you?

22 A. If I get something out of it, that would  
23 be good. But if I've got to do life -- I've been in  
24 prison 22 years. This is all I know. If I've got  
25 to do life in prison, I'll do life in prison.

1 Q. If this is all you've got, you have  
2 nothing to lose; isn't that right?

3 A. I mean --

4 Q. You have nothing to lose?

5 A. Either way, I want to go home, but I'm  
6 trying to make things right. A lot of people died  
7 because of us, and I'm trying to make it right.

8 Q. But you have nothing to lose; is that  
9 right? Yes or no?

10 A. I have everything to lose. I have my  
11 family to lose.

12 Q. Yes or no? Yes or no?

13 A. What do you mean?

14 Q. Do you have anything to lose? Yes or no?

15 A. Yes, I do.

16 Q. What are you losing?

17 A. I could lose my family. I've got  
18 everything to lose. You know, I've got my life to  
19 lose.

20 Q. You're already looking at life in jail;  
21 isn't that right?

22 A. Sure.

23 Q. So you have nothing to lose by this. It's  
24 a gain/gain. It's a win/win.

25 A. Look. I walked away from the SNM before

1 this case even started.

2 Q. Well, we'll get to that. We'll get to  
3 that. So you were housed over in Sandoval County  
4 with all the other cooperators, as well; correct?

5 A. That's correct.

6 Q. Sandoval County is over by -- I'm not too  
7 familiar, but it's over by Albuquerque?

8 A. Yes, sir.

9 Q. Now, you were housed there and there was a  
10 pizza party; is that right?

11 A. No, that was at the North facility.

12 Q. Oh, okay. That was a different occasion.  
13 Okay. Okay. So then on November 19, 2016, you were  
14 charged with some sort of a misconduct in the  
15 prison; right? For some sort of sexual violation?

16 A. Oh, in the North facility?

17 Q. Yes.

18 A. That was in January of that year. That  
19 year I got report, yes.

20 Q. If I show you a document, would it refresh  
21 your recollection?

22 A. Sure. I believe we were transferred out  
23 of the North facility in January, as well. January  
24 or February.

25 Q. I know it was reported in January, but



1 when did it actually occur?

2 A. November 19, 2016.

3 Q. So isn't November 19, 2016, four days  
4 after you pled guilty to this charge?

5 A. What does that report state? Can I see  
6 that again, please?

7 Q. Do you want to look at it again?

8 A. Yes.

9 Q. Do you see what I'm saying?

10 A. Yes, sir.

11 Q. So this incident happened four days after  
12 you pled guilty?

13 A. Yes, sir.

14 Q. And because of that, you lost your CHS  
15 status; correct?

16 A. I believe so.

17 Q. But did you do that as some sort of reward  
18 for yourself after coming here -- maybe not here to  
19 this courtroom, but appearing in front of this judge  
20 and pleading guilty to this charge?

21 A. Well, I just -- we were together and human  
22 urges took over.

23 Q. You did -- but you allowed yourself to do  
24 this four days after you pled guilty?

25 A. Yeah, I did.

1 Q. So is it true that you're a drug user?

2 A. I'm a drug addict, yes.

3 Q. An addict?

4 A. Yes.

5 Q. Do you use Suboxone?

6 A. On occasion, yes.

7 Q. Do you use marijuana?

8 A. No.

9 Q. How about heroin?

10 A. I used heroin, but not anymore.

11 Q. How about methamphetamines? You used

12 once; is that right?

13 A. I tried it, yes.

14 Q. What about -- and excuse me for my

15 pronunciation, but Clonidine?

16 A. What?

17 Q. Clonidine?

18 A. Is that a medication? Clonidine.

19 Q. Yes, I'm sorry.

20 A. Yes, okay.

21 Q. And do you use that, or you take that?

22 You're prescribed that?

23 A. I'm not prescribed it right now, but I've

24 been prescribed it in the past.

25 Q. How about gabapentin?

1 A. Yes, I've been prescribed that.

2 Q. What about Welbutrin?

3 A. I've been prescribed that, as well.

4 Q. All of those are antianxiety medications,  
5 pain relievers, or what are those?

6 A. Gabapentin is used for anxiety, pain  
7 reliever. Welbutrin is for depression, anxiety.  
8 And clonidine was to help me sleep. I wasn't  
9 sleeping.

10 Q. And you need a prescription to get those;  
11 correct?

12 A. Yes, sir.

13 Q. Are you taking those anymore?

14 A. No.

15 Q. So the doctors have taken you off of  
16 those?

17 A. Yes, they took me off those long ago.

18 Q. Isn't it true that when you combine those  
19 medications, it tends to result in a good high?

20 A. At first it does, but if you take it the  
21 way you're supposed to take it --

22 Q. I'm talking about you taking it not the  
23 way you're supposed to, in conjunction with  
24 Suboxone, in conjunction with heroin. When you take  
25 in it conjunction with those drugs, does it result

1 in a good high?

2 A. It could.

3 Q. Is that why you're not prescribed it  
4 anymore?

5 A. No. Actually I took myself off the meds  
6 before we left.

7 Q. Oh, okay. So isn't it true that you're  
8 also a drug dealer? Is that right?

9 A. I used to deal drugs at times.

10 Q. And you stated that there's two main ways  
11 you get drugs into the prison; correct?

12 A. Yes.

13 Q. One is through your girlfriend or a ruca  
14 to send drugs in through legal mail?

15 A. Sure.

16 Q. What is a ruca?

17 A. A girl.

18 Q. A girl?

19 A. Somebody you have --

20 Q. That's a girl. Yeah. A girl. It's a  
21 derogatory nickname for a girl, right?

22 A. We're in prison. We're derogatory.

23 Q. And was Ms. Perez a ruca?

24 A. No.

25 Q. Did you get drugs into the prison through

1 her?

2 A. No, I wouldn't use her.

3 Q. And did you get drugs into the prison  
4 through correctional officers, as well?

5 A. Yes, I did.

6 Q. Do you have any tattoos?

7 A. I sure do.

8 Q. Is it true that you have a portrait of a  
9 grim reaper on your chest?

10 A. Yes, I do.

11 Q. And then you have a portrait of another  
12 grim reaper wearing a mask and carrying an AK-47?

13 A. Yes, I do.

14 Q. Is that true?

15 A. Yes, sir.

16 Q. And they're both on your chest?

17 A. Yes, sir.

18 Q. Now, you stated you left the SNM; right?

19 A. Yes.

20 Q. Do you remember what year you left the  
21 SNM?

22 A. 2014.

23 Q. 2013?

24 A. '14.

25 Q. '14. Are you committed to that?

1           A.     Javier Molina got killed in 2014. I  
2 believe by the end of, I think, November --  
3 September, November. I think -- I'm pretty sure  
4 that's the date.

5           Q.     May I refresh your memory with this?

6           A.     Sure.

7           Q.     So this is an interview you had with the  
8 FBI in 2016. Here's page 2. What's this say here?

9           A.     Well, it looks I was in the unit. It says  
10 I got out of --

11           THE COURT: Mr. Clark, why don't you talk  
12 into the microphone?

13           A.     It says I got out of the SNM in 2013. And  
14 what I told the FBI is I stepped down from the tabla  
15 in 2013, before Javier's murder.

16           Q.     Okay. So you started to get out in 2013?

17           A.     Yes.

18           Q.     So you started the process in 2013; does  
19 that sound right?

20           A.     Yes, sir.

21           Q.     You started this process because you're  
22 tired of the SNM; correct?

23           A.     I was tired of people dying.

24           Q.     You wanted to get away and stop being a  
25 hunter; correct?

1 A. Yes.

2 Q. You said that you didn't have it in your  
3 heart anymore and you're a different man from 20  
4 years ago; correct?

5 A. Yes.

6 MR. BECK: Objection, hearsay.

7 THE COURT: If he'll admit it right now,  
8 then I don't think you need to say it again. So  
9 sustained.

10 BY MR. GRANBERG:

11 Q. So if you were getting out in 2013, you  
12 wanted to change your life; correct?

13 A. Yes, sir.

14 Q. But in 2014, you committed an assault on  
15 Jose Maldonado in Dona Ana; correct?

16 A. There was circumstances around that.

17 Q. But you assaulted him; right?

18 A. I sure did.

19 Q. And you also were convicted of that shank  
20 in 2014, as well; correct?

21 A. I sure -- I think I was convicted -- was  
22 it '14 or '15?

23 Q. It was '14. Do you want to see it?

24 A. Yeah.

25 Q. Okay.

1           A.    You know what? I think I was convicted in  
2   2015, because I was assaulted in January of 2015 in  
3   Dona Ana County, and it was after that I took a  
4   plea.

5           Q.    If I were to tell you that you were, I  
6   guess, arrested for it, for lack of a better term,  
7   in 2014 but you pled to it in 2015, would that sound  
8   about right?

9           A.    Yes, sir.

10          Q.    Okay. But either way, you were carrying  
11   the shank, this lethal weapon, after you had decided  
12   to change your life and leave the SNM; correct?  
13   Correct?

14          A.    I needed protection.

15          Q.    Is that a yes?

16          A.    Yes, sir.

17          Q.    Do you remember when you were brought into  
18   the SNM?

19          A.    Yes, I do.

20          Q.    Is it an important moment in any -- in  
21   your life?

22          A.    It was at the time.

23          Q.    And would you remember the five people  
24   that sponsored you forever and ever?

25          A.    I didn't even really know a couple of the



1 guys that sponsored me. The one I knew the most was  
2 Ruben Hinojos. He was the main one at the facility  
3 at the time.

4 Q. Okay. During Mr. Beck's direct you stated  
5 that Julian Martinez, Night Owl, Ruben Hinojos, Mark  
6 Fresquez, and James last name unknown sponsored you  
7 in; is that right?

8 A. Yes.

9 Q. Do you remember answering that same  
10 question during a March 20 interview, March 20,  
11 2018, interview and giving a different answer?

12 A. No.

13 Q. No? If I show you something, will it  
14 refresh your recollection?

15 A. Yes.

16 Q. So Mr. Clark, you could see this is your  
17 March 20 interview this year. What does it say  
18 right here?

19 MR. SOLIS: We can't hear, Your Honor.

20 THE COURT: Why don't you pull the  
21 microphone a little closer to you, Mr. Granberg.

22 BY MR. GRANBERG:

23 Q. What does it say here?

24 A. This has to do with the assault on Leroy  
25 Torrez, and these are the guys that ordered the

1 assault. And by earning my bones, that confirms my  
2 membership into the SNM.

3 Q. What does it say right here? Can you read  
4 this sentence?

5 A. It says, "Clark says that his first SNM  
6 assault was Leroy Torrez at PNM South Facility."

7 Q. You're reading the wrong part, Mr. Clark.  
8 What does it say starting right here?

9 A. "Clark says that Phillip Cordova, Gerald  
10 Archuleta, Michael Rupert Zamora and Marty Barros  
11 sponsored his membership in the SNM."

12 Q. So those are five totally different names  
13 from the list you gave Mr. Beck?

14 A. Those five names were the names I gave  
15 that ordered the hit on Leroy Torrez.

16 Q. It says here that "Clark says that Phillip  
17 Cordova, Gerald Archuleta, Michael Rupert Zamora,  
18 and Marty Barros sponsored his membership into the  
19 SNM"?

20 A. I earned my bones --

21 MR. BECK: Your Honor, for completeness,  
22 I'd ask that he read the sentence before that.

23 THE COURT: Do you mind doing that, Mr.  
24 Granberg?

25

1 BY MR. GRANBERG:

2 Q. It says, "Clark says that his first SNM  
3 assault was of Leroy Torrez at PNM South, and that  
4 is how he earned his bones, his bones membership  
5 into the SNM."

6 But those five people are different from  
7 the sponsors you listed in Mr. Beck's direct; isn't  
8 that correct?

9 A. They're different, but they ordered the  
10 hit on Leroy Torrez.

11 Q. But you're saying there that they  
12 sponsored your membership?

13 A. That's inaccurate.

14 Q. Okay. That's what it says there.

15 A. It's what I've said earlier. That's what  
16 I'm saying now. They ordered the hit on Leroy  
17 Torrez. I helped stab him, like, 17 times. I mean,  
18 we did what we --

19 Q. Mr. Clark, clear as day it says that they  
20 sponsored your membership, clear as day.

21 A. I became a member when I earned my bones.

22 Q. Do you remember an SNM member by the name  
23 of Eugene Martinez?

24 A. Yes, I do.

25 Q. Isn't it true that when he was arrested,

1 December 3, 2015, that Eugene told you that he and  
2 Angel DeLeon committed the Garza murder?

3 A. When? Say that again. Excuse me?

4 Q. Isn't it true that when you were arrested  
5 for this on December 3, 2015, he made a statement to  
6 you?

7 A. No, that's not true.

8 Q. That's not true?

9 A. No. He made a statement to me about that  
10 in 2004.

11 MR. GRANBERG: Your Honor, may I approach  
12 the witness?

13 THE COURT: You may.

14 BY MR. GRANBERG:

15 Q. Okay, Mr. Clark, can you read this  
16 sentence highlighted by my finger?

17 A. "Martinez and DeLeon told Clark that they  
18 killed one of the guys."

19 Q. What does it say right here?

20 A. "Martinez originally was the one that  
21 jumped on the guy's back, but Martinez was too small  
22 and almost got off. Martinez almost got off  
23 Martinez off of him until DeLeon tackled him in the  
24 bed when they finally finished him off."

25 Q. And this is his statement to you; correct?

1           A.     What year is that?  What statement is  
2     that?

3           Q.     This was from the statement you gave the  
4     day you were arrested.

5           A.     Oh, right.  And like --

6           Q.     So is there any doubt in your mind that  
7     Eugene Martinez gave a statement to you the day you  
8     were arrested?

9           A.     Like I said before, and I'll say again,  
10    the statement I made when I was arrested is  
11    inaccurate.  The statement, the debriefs I made  
12    after, are my statements.

13               MR. GRANBERG:  Your Honor, I'm going to  
14    object as nonresponsive.

15               THE COURT:  I'll grant it and strike it  
16    from the record as nonresponsive.

17               MR. BECK:  Your Honor, I think that was  
18    responsive as to the question.

19               THE COURT:  Well, I don't think so.  
20    Overruled.

21    BY MR. GRANBERG:

22           Q.     Now, Mr. Clark, you stated in your most  
23    recent interview, March 20, 2018, that you had an  
24    encounter with Christopher Chavez; right?

25           A.     Who?

1 Q. Did you not hear me? You stated in your  
2 most recent interview, March 20, 2018, that you had  
3 an encounter with Christopher Chavez in 2002;  
4 correct?

5 A. When I first met him, yes.

6 Q. And this was at PNM North?

7 A. Yes.

8 Q. Level 6?

9 A. Level 6.

10 Q. Does that sound about right?

11 A. He was in H pod. I was in G pod.

12 Q. Okay. And your statement is, you said,  
13 "Hey, you're the one that did those killings in  
14 Cruces"; correct?

15 A. You're one of the guys that did those  
16 things, yeah.

17 Q. And he said to you, allegedly, "Shut up.  
18 You're not supposed to talk about it"; is that  
19 right?

20 A. Yes.

21 Q. He never told you that he killed anyone;  
22 right?

23 A. He never told me nothing.

24 Q. But you know, you make this statement on  
25 the most recent FBI interview dated March 20, 2018.

1 But you don't mention it in any of your previous  
2 interviews, do you?

3 A. I didn't remember. I was just thinking  
4 back on all the stuff.

5 Q. You didn't say it; right?

6 A. I didn't say it, no.

7 Q. You waited until trial; correct?

8 A. He asked me if I remembered anything else  
9 and I remembered that.

10 Q. So the closer we get to trial, the better  
11 your testimony gets; correct?

12 A. The more years you get to think on it, on  
13 what happened, the more you recall stuff.

14 Q. Well, Mr. Clark, you've testified that you  
15 had access to email; right? You could call Agent  
16 Acee through the prison system. You can email him.  
17 If you had something to add, you could have added it  
18 years ago; isn't that right?

19 A. Say that again. I don't understand your  
20 question.

21 Q. My question was: You had access to email  
22 previously; right?

23 A. Yes, sir, I did.

24 Q. And you had access to Agent Acee  
25 previously; correct?

1 A. Yes, sir, I did.

2 Q. So if you had something to add, you could  
3 have done that long ago; isn't that right?

4 A. Yes, sir, I did. If I remembered it, I  
5 could have.

6 Q. You could have done it a long time ago,  
7 but you didn't.

8 A. Yes.

9 Q. So one of the things you said during  
10 Mr. Blackburn's examination struck a chord with me.  
11 It was what you said -- when you said, "When you're  
12 in the game, you've got to play the game"; right?

13 A. Yes, sir.

14 Q. What does that mean?

15 A. It means when you're heavy involved in the  
16 SNM, you do what you got to do to get through.  
17 We -- we --

18 Q. You got to do what you got to do to get  
19 through?

20 A. Yes.

21 Q. How are you playing that game today?

22 A. I'm not playing the game today. I gave up  
23 the game before we even started this.

24 Q. So how is there --

25 A. I gave up.



1 Q. How is there a difference between lying on  
2 a sworn petition for habeas relief and lying here in  
3 court? How there is a difference, if you're doing  
4 one, you're not doing the other?

5 A. I didn't say nothing on the habeas  
6 petition. The habeas petition was based on due  
7 process in the hearing that I received. It wasn't  
8 based on a statement I made.

9 Q. You were filing for \$150,000 in relief;  
10 correct?

11 A. In federal court, yes.

12 Q. In federal court. You were abusing that  
13 process, weren't you?

14 A. No, I wasn't. I was going through the  
15 process from the state court to the federal court.

16 Q. The habeas process exists to address  
17 legitimate concerns; isn't that correct?

18 A. That was a legitimate due process  
19 violation.

20 Q. You had a beef with two corrections  
21 officers; correct?

22 A. I had a beef with the way the due process  
23 was processed in the Department of Corrections, how  
24 they did the reports.

25 Q. So if you're lying on this federal habeas

1 petition, what stops you from lying to this jury?

2 A. I wasn't lying. I had filed a federal  
3 habeas.

4 MR. GRANBERG: Pass the witness.

5 THE COURT: Thank you, Mr. Granberg.

6 Any other defendant have cross-examination  
7 of Mr. Clark? Mr. Sindel?

8 MR. SINDEL: Thank you, Your Honor.

9 THE COURT: Mr. Sindel.

10 MR. SINDEL: You're going to miss the best  
11 part.

12 (Mr. Solis leaves the courtroom.)

13 MR. BECK: Your Honor, may we approach,  
14 briefly?

15 THE COURT: You may.

16 (The following proceedings were held at  
17 the bench.)

18 MR. BECK: I just wanted to comment on  
19 Billy's sticky notes. May we have a copy of the  
20 habeas petition, please, just so I can --

21 MR. BLACKBURN: You can have mine. It's  
22 all marked up.

23 MR. COOPER: In the good places.

24 MR. BECK: As long as it's got sticky  
25 notes. Thank you.

1 (The following proceedings were held in  
2 open court.)

3 THE COURT: All right, Mr. Sindel.

4 CROSS-EXAMINATION

5 BY MR. SINDEL:

6 Q. Thank you. My name is Rick Sindel, and I  
7 represent Mr. Joe Lawrence Gallegos. And I am aware  
8 that this courtroom is basically littered with the  
9 bodies of dead horses. But I'm kind of a  
10 belt-and-suspenders guy, so I may touch on some  
11 things that have been touched on before, and if you  
12 bear with me, if you bear with me, we'll get this  
13 process moving. Okay?

14 A. Yes, sir.

15 Q. Now, you started out your examination and  
16 you were talking about the rules of the SNM;  
17 correct?

18 A. Yes.

19 Q. And I think one of them that we've heard  
20 before and stuck with me again is that if you fail  
21 at a mission, then you also will be subjected to  
22 possible death?

23 A. Yes, sir.

24 Q. You can be killed, and you called it  
25 dropping the flag; is that right?

1 A. Sure.

2 Q. Okay. So if you get a command, an order,  
3 a directive, however you want to word it, and you  
4 don't follow through, you may actually end up dead?

5 A. Yes, sir.

6 Q. And I believe at one point in time, you  
7 discussed this with my client, Joe Lawrence  
8 Gallegos; correct?

9 A. I had a discussion with him.

10 Q. You had a discussion with him about the  
11 fact that Arturo Garcia was spreading materials that  
12 may have identified him as an informant; right?

13 A. Yes, sir.

14 Q. And you discussed the fact that you know  
15 he may have a green light; right?

16 A. Yes.

17 Q. And that he -- like you said, once you get  
18 a green light, you can't get that green light off,  
19 can you, unless maybe you're a drug dealer and you  
20 bring drugs into the prison, something like that;  
21 right?

22 A. Yes, sir.

23 Q. So certain guys, they get some grease and  
24 they're able to avoid the consequences of these  
25 rules. But for the most part, the idea is that if

1 you fail in any regard, you're going to be killed;  
2 correct?

3 A. That's pretty close to the truth.

4 Q. And if you're an informant, you're going  
5 to be killed?

6 A. Yeah.

7 Q. And it doesn't just stay in the prison  
8 system; right? It goes on in the outside world;  
9 right?

10 A. Yes, sir.

11 Q. Because I think your friend Mr. Sanchez,  
12 as I understand it -- you correct me when I'm  
13 wrong -- but that his sin, his violation, consisted  
14 of providing information to police concerning a  
15 beat-down of a woman at a party; right?

16 A. Yes, sir.

17 Q. That obviously didn't have to do with the  
18 prison; right?

19 A. No, sir.

20 Q. And your understanding of the reason that  
21 my client, Mr. Gallegos, may have been green-lighted  
22 was the fact that when someone shot at him and his  
23 brother, he told the police about it?

24 A. Yes, sir.

25 Q. That's a pretty good rule. Now, let me

1 give you an example. Okay? You're an SNM member,  
2 or someone is, and you're sitting there and you're  
3 watching your mom wheel across the street with a  
4 walker. And some guy comes barreling down the road  
5 and runs over her. And you, no doubt, get a license  
6 plate number, you get a make and model on the car,  
7 you get a pretty good look at the guy driving, and  
8 you -- the police come, the ambulance takes the body  
9 of your mother away. Can you tell them about what  
10 you saw without risking death?

11 A. It's a dirty world, man. SNM are dirty  
12 people.

13 Q. Under those circumstances, you're  
14 basically shuttered to silence?

15 A. Pretty much.

16 Q. Right. Pretty stupid, too; right?

17 A. Why do you think I'm sitting here?

18 Q. So I would take it that the inspiration  
19 behind the brotherhood, if you want to call it that,  
20 is not really brotherhood; it's fear; correct?

21 A. Sure.

22 Q. There is some discussion about you -- all  
23 the people whom were working for the Government that  
24 are behind bars were all sort of housed in the same  
25 area, the same unit, the same pod; is that right?

1 A. Yeah.

2 Q. Okay. And you know, I want you to be  
3 comfortable, but when you come forward, hold off on  
4 your answer until you're right there at the mic.  
5 Okay? All right.

6 So you guys are sort of housed together in  
7 this sort of packrat, pack of rats, all together  
8 with your tablets; right?

9 A. Yes, sir, we are. A bunch of rats.

10 Q. And you are capable of talking to the  
11 other people about the progress in the case?

12 A. Sure, we are.

13 Q. I'm sorry, what?

14 A. Sure, we are. Just like...

15 Q. And you know, you're able to say, you  
16 know, I saw on my tablet what you're telling the  
17 cops about what happened; right?

18 A. I haven't had my tablet for a couple  
19 years.

20 Q. Well, but you did have your tablet up  
21 until 2017 when you decided to surf the net for porn  
22 and use it for email; right?

23 A. Sure.

24 Q. And so before that time, you were able and  
25 capable, along with everybody else in this pack of

1 individuals, to look at the tablets and see what Joe  
2 was saying, what Frank was saying, what Ben was  
3 saying, what Leonard was saying; all those guys;  
4 right?

5 A. Sure.

6 Q. And they could see what you're saying.

7 A. Obviously.

8 Q. And you know, it's a lot easier to put the  
9 pieces of a puzzle together when you have directions  
10 of how they fit, isn't it?

11 A. I made my statement before all that.

12 Q. You made many statements; correct? You  
13 started on December 3, 2015, and you continued  
14 periodically to make statements up until the last  
15 statement that you made, at least as far as I know,  
16 March 20 of 2018, when Mr. Beck went through the  
17 information that you had previously provided; right?

18 A. Like I stated, the debriefs that I made  
19 after December 3 are the accurate debriefs.  
20 December 3's debrief, I don't know why it's all  
21 garbled, but every debrief after that is what I  
22 said.

23 Q. Well, the December 3, 2015, garbled  
24 initial brief was on your tablet at one time; right?

25 A. Yeah, it was.



1 Q. Yeah, it was.

2 A. Yeah.

3 Q. And you could have looked at that tablet  
4 and either by e-mail, by letter, by phone, or any of  
5 the other sit-downs said, "You know what? That  
6 statement is all wrong"; right?

7 A. We didn't get our tablets until August or  
8 September of 2016.

9 Q. Right.

10 A. I had a debrief --

11 Q. You didn't finish your debrief --

12 A. -- on April of 2016, and then I asked to  
13 come in again at a later time.

14 Q. You didn't finish your debriefing until  
15 March of 2018.

16 A. Right.

17 Q. You didn't lose your tablet for abusing it  
18 until 2017.

19 A. Sure. I had it.

20 Q. Did you have access to a phone during that  
21 period of time?

22 A. Yes, I did.

23 Q. Did you have access -- did they allow you  
24 pencils and paper?

25 A. Sure, they did.

1 Q. And did you also have access at one point  
2 in time illegally to email?

3 A. Yes, sir, I did.

4 Q. And you also were having regular visits at  
5 that point in time with your girlfriend, which was  
6 important to you; right?

7 A. I would get a visit, like, every four or  
8 five months.

9 Q. Well, would you have visits with anyone  
10 else? Did you have communications with anyone else?

11 A. No. I talked to my mom, and my girl, and  
12 occasionally a friend here or there. But mostly to  
13 my mom and my girl, every day.

14 Q. And your communications with your mom was  
15 on the phone; right?

16 A. Sure.

17 Q. And your communications with your girl was  
18 on the phone; correct?

19 A. Yes, sir.

20 Q. And at any time could you have said,  
21 "Look, I need to talk to Acee or Armijo or  
22 Castellano or Mr. Beck. I need to talk with him to  
23 clarify things"; right? Right?

24 A. I believe I went to my attorney to talk to  
25 Mr. Acee one time.

1 Q. Okay. I forgot him. You could also say  
2 to your attorney, "You need to get in here. I need  
3 to be able to meet with these guys to clear up some  
4 things, because I don't want bad facts floating  
5 around the courtroom"; right?

6 A. It was nothing like that.

7 Q. What?

8 A. It was nothing like that. I talked to --

9 Q. Wait, just a second. It was nothing like  
10 that?

11 A. Yes.

12 Q. Did you talk to your mom regularly?

13 A. Yes, sir, I did.

14 Q. Did you talk to your girl regularly?

15 A. Yes, sir, I did.

16 Q. Did you have access to all the means of  
17 communication that we have talked about?

18 A. Yes, sir, I did.

19 Q. And did you have access -- that's not  
20 funny right now; maybe later -- did you have access  
21 to your attorney?

22 A. Yes, I did.

23 Q. And any one of those means of  
24 communication you could have utilized in trying to  
25 make sure that the facts that were presented in the

1 court were accurate; right?

2 A. The facts I gave are the facts I  
3 remembered.

4 Q. I'm saying to you, you could have  
5 clarified when things you saw were wrong.

6 A. I didn't see my tablet. I haven't seen my  
7 tablet. What I've given them is what I remembered.

8 Q. All right. I know you've been talking  
9 about haven't seen the tablet. We've already  
10 established that you've had the tablet for a  
11 significant period of time before you abused it.  
12 And you did not, during that period of time, as far  
13 as anyone here knows, try to contact these people to  
14 clarify your concerns about the garbled mess you  
15 referred to as the December 3, 2015, interview;  
16 right?

17 A. Well, if you look at the April 2016, which  
18 was five months later, you'll see what I said.

19 Q. I'm looking at the one dated December 3,  
20 2015, right now.

21 A. I didn't --

22 Q. We will talk about the April one when I  
23 get to it. Okay?

24 A. Sure.

25 Q. Can I take it that this woman that you

1 sometimes, I guess, call wife, girlfriend, whatever,  
2 is that a girlfriend you had since you were 17, or  
3 have you met her since you've been in prison?

4 A. The families know each other. I met her  
5 in prison.

6 Q. When Mr. Beck questioned you, he went  
7 through your plea agreement; correct?

8 A. Yes, sir, he did.

9 Q. And he talked to you about the facts that  
10 are in your plea agreement that you admitted to when  
11 you entered the plea?

12 A. He showed me the plea agreement. I know  
13 what it says, so --

14 Q. All right. Does it say the name Joe  
15 Lawrence Gallegos anywhere in those facts as set out  
16 in the plea agreement?

17 A. In the plea agreement I was pleading to  
18 the murder of Fred Sanchez.

19 Q. That's not my question, sir, is it? Okay?  
20 Just answer my question. You'll have an opportunity  
21 if they decide that they need to ask you additional  
22 follow-up. Okay? Does the name Joe Lawrence  
23 Gallegos --

24 A. No, sir.

25 Q. Well, I was going to finish the question,

1 but I guess that's the answer.

2 And so in the facts that you were  
3 responsible for admitting in the plea agreement, it  
4 doesn't mention anything about any incident  
5 involving Joe Lawrence Gallegos; correct?

6 A. My plea agreement is solely on the Fred  
7 Sanchez murder.

8 Q. Okay. Well, is that an answer that it  
9 doesn't have anything to do with Mr. Gallegos, then?

10 A. Yes, sir.

11 Q. Okay. Another one of these horses that's  
12 laying around here is the situation with the  
13 correctional officers there. And we've heard over  
14 and over again that they can be a primary source for  
15 drugs being introduced into the facility; right?

16 A. Yes, sir.

17 Q. And they also can even provide messages  
18 back and forth for SNM members?

19 A. Some do.

20 Q. And they can also bring messages in to  
21 some of the members; right?

22 A. Yes, sir. It can happen.

23 Q. And in the 70,000 pages of discovery we  
24 received, there were incidences where they actually  
25 brought in weapons to the penitentiary to give to

1 the inmates; is that right?

2 A. Yes, sir. That's happened in the past.

3 Q. Firearms; right?

4 A. I don't know about that specifically,  
5 but --

6 Q. Okay. So that's disturbing enough, but  
7 what I'm trying to figure out is: Isn't the door  
8 from one pod to the other sort of off limits when  
9 it's locked?

10 A. No.

11 Q. No. So you could sit by that door the  
12 entire time you're on the tier and slide messages  
13 back and forth to each other from the green -- wait,  
14 wait, wait, wait -- from the green pod to the yellow  
15 pod?

16 A. Sure, you can do that.

17 Q. Well, do you think that the administration  
18 or the correctional officers are aware of this  
19 requirement for paperwork --

20 A. Of course they are.

21 Q. -- that the SNM has?

22 A. Of course they are.

23 Q. Yeah, because I mean, there's a lot of  
24 what they call confidential human sources, which I  
25 guess is different than how I see things, but that

1 provide information all the time concerning the  
2 activities that are going on in the penitentiary;  
3 right?

4 A. Sure.

5 Q. And one of those things they would say is,  
6 you know, there is this requirement for paperwork  
7 from the outside to see whether we can verify, for  
8 example, that Mr. Sanchez was giving the police a  
9 report or cooperated with the police in a report  
10 when a young girl was beaten. And they would know  
11 that those were sort of the things that the prison  
12 gangs might be looking for to verify cooperation or  
13 whether or not someone is informing; right?

14 A. Sure.

15 Q. So I'm thinking -- I'm just trying to  
16 visualize it, because I haven't seen it. But if  
17 you're sliding it under the door, you're kind of  
18 either on your hands and knees or sitting there or  
19 whatever; right?

20 A. You can bend over. It's just like one of  
21 these doors right here. Just bend over, slide it.

22 Q. You've got to bend over, pick it up,  
23 somebody has got to bend over, slide it down or --

24 A. Slide it through the cracks on the side of  
25 the door, if you want to.



1 Q. Okay. Is that how you got the material on  
2 Mr. Sanchez that you utilized before determining his  
3 last three days here on earth?

4 A. No, it was given to me directly through a  
5 food port.

6 Q. Through a food port?

7 A. Yes.

8 Q. All right. So somebody who was supposed  
9 to be delivering the trays was also delivering  
10 material that could be used to kill another human  
11 being?

12 A. No, I popped the food port and -- well, I  
13 didn't pop the food port. Ruben popped the food  
14 port, and he was handed the paperwork from Kyle  
15 Dwyer, which I intercepted from Ruben Hernandez.

16 Q. All right. So the food port -- we heard  
17 the guards say that they had keys to the food port.  
18 Is that true or not?

19 A. Yeah, but you could use a piece of sheet  
20 to pop it open.

21 Q. A piece of sheet, like a bed sheet?

22 A. Yes, sir.

23 Q. Okay. Well, I mean, we're learning  
24 something every day. The security sounds pretty  
25 tight over there.

1 MR. BECK: Objection, Your Honor.

2 MR. SINDEL: I'm sorry. I'll withdraw  
3 that.

4 BY MR. SINDEL:

5 Q. Is the security tight over there in the  
6 prison?

7 A. (Laughs.) Security is not tight anywhere.

8 Q. Okay. So just so I understand, the guards  
9 would be -- you know, as you guys are hanging around  
10 the doors, the guards would be well aware of what's  
11 going on if they had their eyes open and not looking  
12 at video games on their phones; right?

13 A. They've got two COs for -- I don't know.

14 Q. Sixteen people?

15 A. No, 48 people.

16 Q. Well, the control guy looks over the three  
17 different pods; right?

18 A. Yes, sir.

19 Q. And the rover, when he's there, he's  
20 there; right?

21 A. Yes, sir.

22 Q. So what you're saying that is they're so  
23 significantly understaffed that they can't keep eyes  
24 on what's going on within the units?

25 A. Pretty much.

1 Q. You also said -- and I was, like, wow --  
2 that "The COs are working for me"?

3 A. Yeah, we had some COs working for us.

4 Q. And that's because they're actually being  
5 paid; right?

6 A. Yes, sir.

7 Q. In reading all the 302s that were prepared  
8 as a result of your interviews and also in thinking  
9 back over your testimony here today, you mentioned a  
10 number of names. You did not mention the name  
11 Michael Jaramillo; correct?

12 A. I don't remember.

13 Q. Do you know who he is?

14 A. Sounds familiar.

15 Q. I'm sorry, what?

16 A. Sounds familiar.

17 Q. Okay. But he wasn't, at least as far as  
18 you can recall from the time that you had your  
19 tablet or from the time that you had conducted  
20 various interviews with the people over here on this  
21 side of the room, he was not a name that you  
22 mentioned, was he?

23 A. No, he was not.

24 Q. Do you know him personally?

25 A. I don't believe so.

1 Q. Now, March 20, 2018, Mr. Beck comes in to  
2 talk with you along with all the other members of  
3 the prosecution team. And do you know at that point  
4 in time who is going to trial in this case?

5 A. I knew before.

6 Q. I'm sorry, what?

7 A. I knew before. We're all co-defendants.

8 Q. Okay. But I mean, there were a lot of  
9 co-defendants that aren't sitting here in this room.  
10 But did you know who might be sitting here in this  
11 room when you were to give your testimony here in  
12 the first part of May?

13 A. This year?

14 Q. Yes.

15 A. Yeah.

16 Q. So looking around the room, it was no  
17 surprise to see those people; right?

18 A. No.

19 Q. And then when Mr. Beck went through his  
20 presentation or his discussion with you on March 20,  
21 2018, he made sure to touch on all those people;  
22 correct? He discussed what you knew about  
23 Mr. Troup; right?

24 A. Sure.

25 Q. And he asked you what you knew about

1 Mr. Gallegos; right?

2 A. Sure.

3 Q. What you knew about Mr. Garcia; right?

4 A. Yes, sir.

5 Q. What, which was nothing, that you knew  
6 about Andrew Gallegos; right?

7 A. Yes.

8 Q. He went through each one of them and then  
9 you popped him with whatever you claim to know;  
10 right?

11 A. Yes, sir.

12 Q. I think you said in giving your interview  
13 on December 3 of 2015 you wanted to see what the FBI  
14 was going to do; right?

15 A. Yes, sir.

16 Q. What -- maybe what you could get, what was  
17 available to you if you were to provide information  
18 that they wanted; right?

19 A. I was trying to see if I was going to get  
20 protection.

21 Q. Well, let me ask you this. Of all the  
22 people that are there in the pack of informants that  
23 you have been living with for the last, what, three  
24 years now, since December of 2015 -- you watched  
25 them go come and go; right? Right? You've got to

1 say it one way or the other. I'm sorry, you have to  
2 use your mouth.

3 A. Yeah, sure.

4 Q. How many are dead?

5 A. How many are housed with the defendants?

6 Q. How many are dead?

7 A. How many are housed with the defendants?

8 Q. How many are dead?

9 A. The same that are housed with the  
10 defendants, zero.

11 Q. How many have been attacked?

12 A. None.

13 Q. See? Okay. And there is no reason --  
14 there is no basis for anyone to be housed with the  
15 defendants; right?

16 A. I don't understand.

17 Q. Well, I mean, you're going to be running a  
18 prison facility, you don't have to house people  
19 together that have issues, do you?

20 A. (Laughs.)

21 Q. That's enough. Okay?

22 A. What have we just been talking about?  
23 What have you just been talking to me about, how  
24 people are housed?

25 Q. Well, do you think, then -- you tell me.

1 Do you know -- do you think, then, that the people  
2 there that run the New Mexico Department of  
3 Corrections are going to put you guys together so  
4 someone's life is in danger?

5 A. Yes, I do.

6 Q. I'm sorry, what?

7 A. Yes, I do. I believe that will happen.  
8 I've seen it happen. How many people are dead right  
9 now? How many people are in this murder case right  
10 now?

11 Q. I'm asking you, is that something that you  
12 believe they'll do in order to eliminate or  
13 exterminate you and other people that are part of  
14 the pack?

15 A. There's three people dead you guys are  
16 defending right now. I mean --

17 Q. Yes or no. I don't want to hear your  
18 editorials. Just answer the question, please.  
19 Nonresponsive.

20 A. How many people are dead?

21 THE COURT: Mr. Clark.

22 THE WITNESS: I'm sorry.

23 THE COURT: I'll strike your answer. The  
24 jury will disregard it. Listen to Mr. Sindel.  
25 Answer his questions. Then if Mr. Beck wants to

1 bring something else out, he'll bring it out.

2 THE WITNESS: Okay. I'm sorry.

3 THE COURT: Mr. Sindel.

4 BY MR. SINDEL:

5 Q. I understand it's a hard process to be  
6 answering a bunch of questions from a bunch of  
7 horse-beaters, but the point really I'm trying to  
8 make is: Do you believe that the people that run  
9 the institution will purposely put your life in  
10 danger?

11 A. Yes, I do.

12 Q. Do you think that stems from the fact that  
13 you've pretty significantly condemned their work  
14 ethics and the individuals who work for them?

15 A. I don't understand that.

16 Q. Well, do you think that the fact that you  
17 have said in this courtroom numerous times under  
18 oath that not only do they subject you to danger,  
19 but they're constantly bringing in drugs, weapons,  
20 conveying messages, I mean, every possible thing you  
21 can think of that a correctional officer should not  
22 do; right?

23 A. Sure.

24 Q. And that's part of what goes into your  
25 thinking; right?



1 A. That's exactly what goes into my thinking.

2 Q. Now, I'm going to call your attention to  
3 the 302 that we've talked about before of December  
4 of 2015. Okay? Did you say at that time that in  
5 2002 there was a double homicide at Southern New  
6 Mexico Correctional Facility?

7 A. I believe I touched on it a little bit.

8 Q. Okay. And you said it was in 2002? That  
9 was your memory at that time?

10 A. No, I said it was in 2001, but it's marked  
11 down as 2002.

12 Q. So you -- how do you know it's marked down  
13 as 2002?

14 A. Because that's what's written on the  
15 paper.

16 Q. Well, I thought you haven't seen the paper  
17 for a long time.

18 A. I haven't seen it, but you guys have been  
19 showing it to me all morning.

20 Q. Who else showed you a paper that had to do  
21 with a 2002 incident? No one; right?

22 A. The attorney.

23 Q. Me; right?

24 A. Yes.

25 Q. When did I approach with you a piece of

1 paper today?

2 A. You haven't, but the other attorneys have.

3 Q. Well, when was it that they approached you  
4 about that particular section? Can you remember?

5 A. You're talking about the December 3rd,  
6 2015, with every attorney that's talked to me.

7 Q. Yeah, but I'm talking to you about a  
8 particular portion of it, and you said it was a  
9 small portion; right? That was your words.

10 A. My words were in 2001.

11 Q. All right.

12 A. Double homicide.

13 Q. But you know as you sit there right now  
14 that it says 2002; right?

15 A. Yes, sir, I do.

16 Q. And not because you read it today, but  
17 because some others brought it to your attention;  
18 correct?

19 A. It's been shown to me over and over today.

20 Q. No one showed you that portion of it, did  
21 they?

22 A. They showed me the whole paper.

23 Q. Who is "they"?

24 A. The other attorneys. I don't know. I  
25 can't remember their names at this point but...

1 Q. Well, did you say then, just we're clear,  
2 in December of 2015 that the double homicide  
3 occurred in 2002?

4 A. I believe I said 2001, because I know when  
5 it happened. I know when all these homicides  
6 happened.

7 Q. You said in 2001 -- okay, and we've gone  
8 through this a million times. But you've never  
9 corrected it until this moment when you're sitting  
10 there.

11 A. Look at the --

12 Q. Right?

13 A. Look at the debrief.

14 Q. Right?

15 A. Look at the debrief from April, and I'd  
16 say 2001. I said 2001 consistently to every  
17 debrief.

18 Q. When did you say they got it wrong on the  
19 2015?

20 A. In April, when I got debriefed.

21 Q. Would that be April 2016?

22 A. Sure.

23 MR. SINDEL: May I approach?

24 THE COURT: Why don't we do this after  
25 lunch? All right, Mr. Sindel?

1 MR. SINDEL: Sure.

2 THE COURT: Before everybody goes, I don't  
3 want to do this at the end of the day and hold  
4 everybody up. Let me remind you of a few things  
5 that are especially important. It's been a while  
6 since I gave you these instructions.

7 We're going to be breaking for the weekend  
8 at the end of the day. Until the trial is  
9 completed, you're not to discuss this case with  
10 anyone, whether it's members of your family, people  
11 involved in the trial, or anyone else, and that  
12 includes your fellow jurors. If anyone approaches  
13 you and tries to discuss the trial with you, please  
14 let me know about it immediately.

15 Also, you must not read or listen to any  
16 news reports of the trial. Don't get on the  
17 internet, do any research for purposes of this case.

18 And finally, remember that you must not  
19 talk about anything with any person who is involved  
20 in the trial, even if it doesn't have anything to do  
21 with the trial. If you need to speak with me, give  
22 a note to one of the court security officers or  
23 Ms. Bevel. I've been trying not to repeat these.  
24 But we've been going a while, and I haven't done in  
25 it a while, so I wanted to do it before we got away

1 today.

2 All right. We'll be in recess for about  
3 an hour. All rise.

4 (The jury left the courtroom.)

5 THE COURT: All right. The chart for the  
6 James statements for Michael Jaramillo is now filed  
7 at document 2206 and I'll try -- it's off my desk.  
8 The clerk is looking at it on the motion that Troup  
9 has filed. So I'll try to get that filed here  
10 shortly, if it's not already.

11 All right. See you all in about an hour.

12 (The Court stood in recess.)

13 THE COURT: I think we've got all the  
14 defendants in the courtroom. Looks like we have an  
15 attorney for each defendant. I do think we have now  
16 Mr. Troup's -- I did get the opinion entered so it's  
17 docketed at 2207. I will now turn to -- unless  
18 y'all think of something better to do, I'm going to  
19 take the chart I gave you this morning at 2206, put  
20 it into the opinion I've been work on Jaramillo, and  
21 get that out. So if anybody has anything more  
22 urgent for me to work on this afternoon or over the  
23 weekend, let me know before we get out of here  
24 today. Otherwise, I'll try to finish that up and  
25 then we'll start the week clean.

1 Anything we need to discuss, Mr. Beck?

2 MR. BECK: No, Your Honor.

3 THE COURT: How about from the defendants?

4 Anything? If you don't mind, Ms. Harbour-Valdez,  
5 just each day give me a clean -- I don't need  
6 historical. I'm still looking at the chart. If  
7 you'd on Monday morning give me a clean one, and  
8 we'll see where we are.

9 MS. HARBOUR-VALDEZ: Okay. I will do  
10 that, Your Honor.

11 THE COURT: The jurors are a little slow  
12 getting back. We need about three.

13 All right. We may have a little bit of a  
14 delay getting the witness up, but we'll have  
15 Mr. Clark up here in just a moment.

16 I'll introduce you to Christin Solis.  
17 She's -- I think Ms. Bevel introduced the jury to  
18 her, and I'll introduce her to everybody else.  
19 She's one of the -- what's your title down here in  
20 Las Cruces.

21 MS. SOLIS: I'm Judge Wormuth's courtroom  
22 deputy.

23 THE COURT: Ms. Solis has worked with me  
24 in a lot of hearings and cases over the years, so  
25 she feels like my relief when I come down here

1 because she works with me so much. But she's going  
2 to take over this afternoon. Ms. Bevel had an  
3 appointment right at 5:00, so she's trying to get  
4 back to Albuquerque to make that. We're ready.

5 All right, Mr. Clark. If you'll resume  
6 your place in the witness box, and I'll remind you  
7 you're still under oath.

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: All right, Mr. Sindel. If  
10 you'd like to resume your cross-examination of  
11 Mr. Clark.

12 BY MR. SINDEL:

13 Q. I would like to talk to you, Mr. Clark,  
14 about the conversations you claim to have had with  
15 my client, Mr. Gallegos, in 2004.

16 A. Yes, sir.

17 Q. And you've already sort of briefly touched  
18 upon it. You said the first time you mentioned it  
19 in any debrief was December 3, 2015; correct?

20 A. Yes, sir.

21 Q. And the date was wrong but we've beaten  
22 that horse, so I'd like to ask you a couple more  
23 questions. At the time that you had -- you claimed  
24 to have had this conversation, were you in the  
25 North? Was it PNM North?

1 A. Yes, sir. We were both at PNM North.

2 Q. Were you both in the same pod?

3 A. No, we were in different housing units.

4 Q. Different housing units. When you go out  
5 to recreate, is it one pod at a time?

6 A. At that time, if there was room, they  
7 would mix units together.

8 Q. And that was totally discretionary, then,  
9 with the correctional staff; is that right?

10 A. Yes, sir.

11 Q. And when you're talking about a recreation  
12 yard, you're not talking about a place like a  
13 playground at a school; correct?

14 A. We're talking about cages next to each  
15 other.

16 Q. I've heard them called dog runs, something  
17 like that?

18 A. Some people call them that.

19 Q. So they're small units and if you are not  
20 next to each other, you won't be able to talk very  
21 easily?

22 A. Yes, sir.

23 Q. Now, who else was present for this  
24 conversation you claim to have had with  
25 Mr. Gallegos?



1 A. Just me and Mr. Gallegos.

2 Q. And this was during -- this is phone rec  
3 or some other different kind of rec?

4 A. Just regular rec.

5 Q. Hourly rec? And that happens once a day?  
6 Once an hour? For an hour?

7 A. Yes, sir. Once a day, five times a week.

8 Q. Now, in December 2015, do you remember --  
9 well, let me ask you this. Was it Angel DeLeon, a  
10 Mexican national, and Eugene Martinez from  
11 Albuquerque, along with someone named Ben Gallegos  
12 who committed the two murders?

13 A. No. Can I see that paper again, please?

14 Q. Sure.

15 MR. SINDEL: May I approach, Your Honor?

16 THE COURT: You may.

17 BY MR. SINDEL:

18 Q. I'll tell you right now, so you know, I  
19 would never ever misread anything to you. But I  
20 want you to be comfortable.

21 A. Okay. I didn't --

22 Q. Just wait. You're going to read this  
23 section right here.

24 A. Okay.

25 Q. Don't read it aloud. Read it to yourself.

1           A.    I didn't write this.  I didn't write this  
2 report, sir.

3           Q.    You have to wait for a question.

4           A.    Yeah, okay.

5           Q.    Did you indicate at that time that three  
6 people you said were responsible; two of them were  
7 Angel DeLeon and Eugene Martinez; correct?  Two  
8 people.

9           A.    Two people that were involved in the  
10 double homicide.

11          Q.    And then you also said someone named Ben  
12 Gallegos; right?

13          A.    No, I said --

14          Q.    Is that in the paper?

15          A.    That's in the paper, but I didn't write  
16 this paper.

17          Q.    All right.  So they got it wrong?

18          A.    They got it wrong.

19          Q.    And we went through all the  
20 back-and-forth, back-and-forth about your efforts or  
21 nonefforts to correct it; correct?

22          A.    I did correct it in April of 2016 when --  
23 that was my actual debrief of everything that I  
24 know.

25          Q.    This is not a debrief.  Is that your

1 situation?

2 A. This was from when we first saw the  
3 agents -- I don't even know who this agent is. The  
4 agent I've talked to mostly is Bryan Acee. He  
5 showed up at the end of this conversation I had with  
6 this man, but I didn't write this down. I didn't  
7 sign nothing on it. Most of that stuff is wrong.

8 Q. Did you sign the other FBI 302, sir?

9 A. I don't remember.

10 Q. Well, how about if you --

11 A. But I'm pretty sure she recorded it.

12 Q. You think they're audio-recorded?

13 A. I'm pretty sure they are.

14 Q. Okay. So that would make sure it's  
15 accurate; right?

16 A. I'm just telling you in April 2016.

17 Q. Can you see the second paragraph, last  
18 line there? What does it say?

19 A. It refers to the recording of this  
20 interview and verbatim transcript of same.

21 Q. So it was recorded; right?

22 A. I don't know, sir, but --

23 Q. Does it say there it's recorded?

24 A. It says there it's recorded.

25 Q. Okay. And this was FBI Agent Dougherty;

1 correct?

2 A. Sure.

3 Q. And Lieutenant Bobby Holden from the Dona  
4 Ana County Sheriff's Office?

5 A. Yes, sir.

6 Q. And then you got your rights, and you  
7 signed off on what they referred to as an FD395.

8 A. On the waiver of my rights, yes, sir.

9 Q. And that's the only signature as far as  
10 you know of that's on this particular document?

11 A. Yes, sir.

12 Q. And then when you had -- let's see. You  
13 lost your tablet in April of 2017; correct?

14 A. Somewhere around there, sir.

15 Q. So that prior to that time did you see any  
16 302 that you had signed off on?

17 A. No, sir.

18 Q. Now, does it then say in this particular  
19 302 that Martinez and DeLeon both jumped on the  
20 individual that they murdered?

21 A. It sure does say that, sir.

22 Q. And then Martinez was originally on top,  
23 jumped on the guy's back, and DeLeon had to finally  
24 tackle him to get him down.

25 A. That's what it says, but that's not what

1 happened.

2 Q. Well, you don't even know what happened,  
3 right, because you weren't there; right?

4 A. I know I was told what happened.

5 Q. And you don't even know if that's true, do  
6 you?

7 A. The guys that did it told me.

8 Q. Do you know that's true?

9 A. I don't know if it's true or not.

10 Q. You saw it with your eyeballs? No?

11 A. No, I didn't.

12 Q. So as I understand it, then, what you  
13 basically took on to do was to clarify what had  
14 actually happened in the -- five months later in  
15 April 12, 2016; correct?

16 A. Yes, sir.

17 Q. And I think at that time was the time that  
18 you talked about having received paperwork on  
19 Mr. Gallegos; is that right?

20 A. I believe so.

21 Q. And that's the conversation that you claim  
22 took place in the cages; right?

23 A. Yes, sir.

24 Q. No one else was around?

25 A. No, sir.

1 Q. As far as you know, no one else heard it?

2 A. Yes, sir.

3 Q. And also at that time and in every other  
4 conversation, there was no mention of anyone named  
5 Michael Jaramillo; correct?

6 A. I can't remember exactly.

7 Q. Do you want me to show you the 2016  
8 report?

9 A. No, I never mentioned Michael Jaramillo.

10 Q. And his other name was Criminal. There  
11 was no mention of anyone named Criminal; right?

12 A. No, sir.

13 Q. In terms of trying to clear up some of  
14 these issues that you had with these reports, when  
15 you had been blessed with some of the things that  
16 the Government gave to the cooperators, one of the  
17 benefits was unlimited phone calls, wasn't it?

18 A. Yes, sir.

19 Q. And you could make unlimited phone calls  
20 to your girlfriend or your mother or, if necessary,  
21 your attorney if your attorney was available; right?

22 A. Sure.

23 Q. And did you also in those phone calls ask  
24 your mother to patch you in to three-way calls?

25 A. On occasion.

1 Q. All right. I mean, you know that those  
2 calls are taped; right?

3 A. Yes, sir, they are.

4 Q. Wouldn't surprise you at all if we have  
5 those tapes, would it?

6 A. Oh, no. Not at all.

7 Q. Not at all. So I mean, there were times  
8 when you say, "Mom, patch me in to the attorney, I  
9 want to leave a message," or something to that  
10 effect?

11 A. Sure.

12 Q. And you'd ask your mom, "Look, I need to  
13 talk to the attorney. Can you leave him a message  
14 or her a message"; right?

15 A. Yes, sir.

16 Q. So there was a number of places, as we  
17 talked about before, for you to communicate  
18 concerning what you claim are mistakes in the  
19 December 3, 2015, the 302; right?

20 A. Yes, sir.

21 Q. All right. So did you ever -- let me ask  
22 you this. Have you ever referred to what is going  
23 on with the investigation in this prosecution as the  
24 Government playing a lot of head games?

25 A. I might have said that.

1 Q. And they're using other people's  
2 statements against you?

3 A. Sure.

4 Q. And that those statements are lies?

5 A. Some of them were.

6 Q. And that, in fact, in your petition for  
7 the habeas corpus that you filed in federal court,  
8 one of the issues you had was that informants had  
9 lied on you; right?

10 A. Yes, sir.

11 Q. It's no surprise to you that some people  
12 who claim to be cooperators who are informants or  
13 whatever nice word you want to use can lie; right?

14 A. Absolutely, correct.

15 Q. And just signing off on a piece of paper  
16 doesn't make anything the truth, does it?

17 A. No, sir, it doesn't.

18 Q. And did you ever tell your -- let me  
19 rephrase that. Have you ever referred to this as  
20 the dirtiest game I've ever seen?

21 A. I might have. I don't know. I'm not  
22 sure.

23 Q. March 22, 2017?

24 A. That was a long time ago.

25 Q. I know it was. I'm just asking you.



1           A.     I talk to my mom, you know, three or four  
2 times a week. I talk to my girl every single day.  
3 I mean, it's kind of hard to remember every single  
4 conversation I have with her.

5           Q.     I'm not asking you to do that. Okay? I'm  
6 just asking if you remember referring to this  
7 process as the dirtiest game I've ever seen.

8           A.     I don't remember saying that.

9           Q.     Do you remember indicating that all the  
10 players are dirty, the feds, the dudes involved,  
11 everybody is bad?

12          A.     I don't remember saying that. I might  
13 have said that but...

14          Q.     It wouldn't surprise you if you said it --

15          A.     It wouldn't surprise me.

16          Q.     -- in a moment of frustration; right?

17          A.     Sure.

18          Q.     And do you recall in a phone conversation  
19 to your mother saying something about you tried to  
20 tell Bryan and Maria. And Bryan is Acee; correct?

21          A.     Yes, sir.

22          Q.     And Maria is Armijo; right?

23          A.     Right.

24                 MR. SINDEL: And I apologize for saying it  
25 wrong. It's this St. Louis thing.

1 Q. Okay, so do you remember saying something  
2 about their golden boys?

3 A. Sure.

4 Q. And who were you referring to when you  
5 were talking about their quote, unquote, golden  
6 boys?

7 A. Timothy Martinez and Freddie Munoz.

8 Q. Do you remember saying something like that  
9 "They needed to talk to their golden boys and tell  
10 them this is a team effort"?

11 A. Sure, I might have said that.

12 Q. Yeah, and you're thinking, rah, rah, let's  
13 get together because we're a team; right? We should  
14 act as a team, work together; right?

15 A. Not necessarily work together, but we're  
16 all living together, and there's no -- there's  
17 nothing good about stepping on each other.

18 Q. Tell them that this is a team effort;  
19 right? Do you remember that?

20 A. Yeah, sure. I don't recall it exactly,  
21 but I might have said that.

22 Q. "No one person is trying to take all the  
23 glory"; right?

24 A. I might have said that.

25 Q. And do you remember around that same

1 period of time complaining because there were  
2 certain kites that had been put out on you  
3 concerning bringing contraband into the facility?

4 A. Sure, because I wasn't bringing contraband  
5 into the facility.

6 Q. And that there were some people that were  
7 in that pack of people that were trying to make you  
8 look bad?

9 A. Sure.

10 Q. And that they were trying to make  
11 themselves look better so they could get a better  
12 deal?

13 A. That's what it seemed like.

14 Q. That's the way it is, isn't it?

15 A. That's what it seemed like.

16 Q. And that those same guys are trying to  
17 throw you under the bus?

18 A. That's what it felt like.

19 Q. There are a lot of buses in this  
20 particular situation, aren't there?

21 A. I suppose so.

22 Q. Now, one of the things -- you know, we've  
23 talked about the 5K and blown off through all those  
24 things. There were discussions that you had  
25 concerning the possibility of being moved to another

1 place; right?

2 A. What are you talking about?

3 Q. Move to another state, move to another  
4 part of the country?

5 A. I don't recall that.

6 Q. So you don't recall any conversations in  
7 that regard?

8 A. Maybe move to another facility, but I  
9 don't recall being -- saying anything about being  
10 moved to another state or --

11 Q. What about getting help getting a job?

12 A. Sure. Yeah, that if I ever made it out,  
13 they would help me get a job.

14 Q. And at one point in time, I think you  
15 answered questions that you were hoping to get out  
16 by December of 2016?

17 A. I was really hoping I'd finish my time and  
18 I was hoping to get out.

19 Q. And theoretically you were thinking, "I  
20 can walk away from this thing because I'm done with  
21 that 27-year sentence"; right?

22 A. That's what I thought.

23 Q. And so at any point in time did you  
24 believe that you could -- that the federal  
25 government would help you get a job?

1 A. If I ever got out, yeah.

2 Q. And that they would be able to relocate  
3 you?

4 A. If I ever got out, yes.

5 Q. And that they would be able to, you know,  
6 basically give you a new identity?

7 A. I wouldn't go that far. I would like to  
8 keep in contact with my family, you know.

9 Q. Well, let me ask you, do you remember a  
10 conversation that you had on May 21, 2016, with a  
11 woman I'm going to only identify as Jeanette; right?

12 A. That was a long time ago, man.

13 Q. Well, I'm just asking you, is that  
14 Jeanette who you had daily conversations with?

15 A. Yes, sir.

16 Q. And do you remember telling her, "We could  
17 get new identities and everything, babe. We can."

18 And she said, "I'm going to be Jennifer.  
19 I'm going to be Jennifer, like I would tell the  
20 kids."

21 Do you remember that?

22 A. We might have been messing around,  
23 clowning with each other or something. I was  
24 telling her what's available under the witness  
25 protection program.

1 Q. You were telling her what you thought you  
2 would get; right?

3 A. What I could get.

4 Q. You also were telling her what they had  
5 told you was possible; right?

6 A. Sure.

7 Q. "We'll even get -- they'll hook us up with  
8 good jobs, a place to live"; right?

9 A. Sure.

10 Q. "And shit, they might even -- they could  
11 hire you as anything. Any federal job, babe";  
12 right? You were telling her that they had told  
13 you --

14 A. Some things that I had read, you know,  
15 some things that I had looked up on my own involving  
16 the witness protection program, some --

17 Q. Did you tell her that, "Hey, I read this,  
18 I looked it up"?

19 A. No, I just --

20 Q. Let me -- wait, wait, wait, wait, wait.  
21 She's got to get the question down before she gets  
22 your answer in. Okay. "Hey, they could hire you as  
23 anything, any federal job, babe"; right? Did you  
24 tell her that?

25 A. I'm pretty sure I did. I mean --

1 Q. You are telling her, "Dream on"; right?  
2 You're telling her that is a future here; right?

3 A. Sure.

4 Q. And she says she doesn't want to go  
5 anywhere where there's snow but she said, "Well,  
6 they could even move us to California"; right?

7 A. It's possible.

8 Q. And that "They can help take off all my  
9 tattoos"; right?

10 A. I don't remember that, but they could have  
11 said it, yeah.

12 Q. So you were telling her you had big dreams  
13 because what you had learned and what you had been  
14 told by the prosecution and the members that sit at  
15 this table; right?

16 A. Exactly. Big dreams. I had big dreams.

17 Q. I understand that. There is nothing wrong  
18 with that. And when you said that when you're in  
19 the game, you play the game -- do you remember  
20 saying that?

21 A. I'm not in the game anymore. I stepped  
22 out of the game three years ago.

23 Q. Do you remember saying that, sir?

24 A. Yes, sir.

25 Q. "When you're in the game, you play the

1 game"; right?

2 A. Yes, sir.

3 Q. And you know coaches who can take you out  
4 if you're not performing are on this side of the  
5 room, aren't they?

6 A. Sure, they are.

7 MR. SINDEL: That's all I have.

8 THE COURT: Thank you, Mr. Sindel. Any  
9 other defendant have cross-examination of Mr. Clark?

10 All right. Mr. Beck, do you have any  
11 redirect?

12 MR. BECK: I do, Your Honor.

13 MR. SHATTUCK: Your Honor, may we approach  
14 before he begins?

15 THE COURT: You may.

16 (The following proceedings were held at  
17 the bench.)

18 MR. SHATTUCK: I know it's not going to  
19 happen, but I just want to make sure that -- during  
20 one of the crosses, Mr. Patterson's name was  
21 mentioned, and it was the area we talked about,  
22 earlier in the day, not bringing up.

23 THE COURT: Are you planning to bring up  
24 Mr. Patterson?

25 MR. BECK: No.



1 MR. SHATTUCK: I just wanted to make sure.

2 All right. Thanks.

3 (The following proceedings were held in  
4 open court.)

5 THE COURT: All right, Mr. Beck.

6 REDIRECT EXAMINATION

7 BY MR. BECK:

8 Q. Mr. Clark, you were just speaking with  
9 Mr. Sindel about some phone conversations you had.  
10 Do you remember that?

11 A. Yes, sir.

12 Q. And he asked you about a conversation you  
13 had with your mom about the cooperators lying; do  
14 you remember that one?

15 A. Yes, sir.

16 Q. Did you tell your mom that you told Jesse  
17 Trujillo to have Cheeky and Ruben Hernandez hit Fred  
18 Sanchez?

19 A. No.

20 Q. Why not?

21 A. Because that's not her business.

22 Q. Why were you and Jeanette talking about  
23 getting out in 2016 and moving to California?

24 A. Because my time was finished, and I was  
25 hoping that we -- I could get out, you know. I was

1 hoping there was a way to get out. But once I knew  
2 there was no way to get out, we talked about it and  
3 I told her, "It could be years, you know. So if you  
4 want to stay on, stay on. If you don't, go ahead  
5 and leave."

6 Q. I think early on you were asked about the  
7 hit on Junior, early on in your cross-examination,  
8 and that it was called by Angel Munoz.

9 A. Sure, yes, it was, and a few other more on  
10 the tabla.

11 Q. Was Angel Munoz the jefe at that time?

12 A. Yes, he was.

13 Q. Did he personally come and tell you  
14 directly to hit Leroy Torrez?

15 A. No, he did not.

16 Q. Did you understand from those who told to  
17 you do it that it was coming from Angel Munoz?

18 A. Yes, it came from the North on a  
19 disciplinary hearing. They brought the guy back to  
20 the South facility. He called one of the guys at  
21 the South facility as a legal rep to represent him  
22 on a misconduct report, and they passed the word  
23 like that.

24 Q. May we have Exhibit 826, please. And  
25 again, the North facility is up here on the top, and

1 the South facility is on the bottom; right?

2 A. Yes, sir.

3 Q. Generally throughout the time you've been  
4 an SNM member, where are the members of the tabla  
5 incarcerated?

6 A. At the North facility, sir.

7 Q. And in order -- well, what was Leroy  
8 Torrez' position at that time in the SNM?

9 A. He was running the South facility.

10 Q. And so in order to hit someone who had the  
11 keys at the South facility, where would that have to  
12 come from in the SNM?

13 A. It would have to come from the top.

14 Q. You were asked a lot of questions about  
15 Fred Dawg and your role in that. Do you remember  
16 that?

17 A. Yes, sir, I do.

18 Q. What was Fred Dawg's position in the SNM?

19 A. He was a high-ranking SNM Gang member.

20 Q. Had he been a high-ranking SNM member for  
21 a long time?

22 A. Yes, sir. He had been on and off the  
23 tabla for years.

24 Q. So in your experience with the SNM, could  
25 you have called that hit by yourself?

1 A. Not at that time. I needed the tabla's  
2 permission.

3 Q. And in June of 2007 was Arturo Garcia on  
4 the tabla?

5 A. He was the head of the tabla at that time.

6 Q. When you passed the paperwork to yellow  
7 and green pod, did you tell them that that order and  
8 that paperwork came from Arturo Garcia?

9 A. No, I just passed the paperwork and told  
10 them to look at it.

11 Q. Okay. I think you were asked about a  
12 nickname that you had for the pod you were staying  
13 in in Sandoval County and you said "D pod." Do you  
14 remember that?

15 A. Yes.

16 Q. Why did you call it D pod?

17 A. Because I think it was D pod that we were  
18 living in.

19 Q. So was there a nickname for that?

20 A. No, it was just D pod.

21 Q. Would the letter that Mr. Burke showed  
22 you -- do you remember talking about that letter?  
23 And I can show it to you if you need to see it.

24 A. Yes, sir, I remember talking about that.

25 Q. Did I ever show you this letter when you

1 and I met in March?

2 A. Not at all.

3 Q. Did I tell you about the letter in that  
4 meeting, or did you tell me about it?

5 A. I told you about that letter.

6 Q. But I think you said you mentioned that  
7 before -- you'd mentioned that before -- let me go  
8 back. Do you remember Mr. Burke asking if today was  
9 the first time we've ever heard that?

10 A. Yes, sir, I do.

11 Q. And did you say that you remembered saying  
12 that before?

13 A. Yes, sir, I did.

14 Q. I'm going to show you your March 20,  
15 2018 -- the 302 FBI report of March 20, 2018, at  
16 Bates No. 68265. Go ahead and read the paragraph  
17 labeled "Arturo Garcia."

18 A. "Benjamin Clark" --

19 Q. Just to yourself. And then after you do  
20 that, tell me if that report talks about the  
21 interception of that 2007 letter on the outside.

22 A. Yes, it does, sir.

23 Q. So was that -- and I think you said when  
24 you and I met -- was that March 20, 2018, was that  
25 the 302 from when you and I met?

1 A. Yes, sir.

2 Q. And I'm showing you your April 2016 302  
3 report, the 302 report, your debrief. Do you see  
4 who wrote this report?

5 A. Agent Bryan Acee.

6 Q. And you talked a lot about this one today.  
7 I'm showing you Bates No. 41975, the second page of  
8 that report. Go ahead and look at the fourth  
9 paragraph from the bottom. Read that to yourself  
10 and tell me if, in April 2016, you also talked about  
11 that 2007 letter being intercepted on the outside.

12 A. Yes, sir, I did.

13 Q. So a number of times today I think you  
14 talked today about giving a lot of statements to law  
15 enforcement. Do you remember that?

16 A. Yes, sir, I do.

17 Q. And as we've gone through this process  
18 today, if there are things that you didn't quite  
19 remember saying or you didn't remember how they were  
20 worded, your memory, the lawyers have helped refresh  
21 your memory with these reports; right?

22 A. Yeah, they did.

23 Q. Is it fair to say that some of this stuff  
24 was a long time ago?

25 A. Yeah, it was.

1 Q. Now, I want to talk to you about a couple  
2 of these statements. And again because we can, if  
3 your memory needs refreshing, just let me know. But  
4 when did you -- I think you said this before, but  
5 just to remind us, when did you receive the tablet?

6 A. August, September of 2016, somewhere  
7 around there. Maybe October. It was later in the  
8 year.

9 MR. BECK: Will the defense stipulate that  
10 in April of 2016 Mr. Clark and the defendants have  
11 not had the tablet? "Sometime in April of 2016, the  
12 defendants did not have their tablets."

13 MR. SINDEL: Well, they did have it for  
14 part of April.

15 MR. BECK: April 2016, not '17.

16 MR. SINDEL: Okay. I guess I got  
17 confused.

18 MR. BECK: Sure. I think -- let me ask.  
19 BY MR. BECK:

20 Q. Your tablets were confiscated in April of  
21 2017; right?

22 A. Yes.

23 Q. But in April of 2016 did you have a  
24 tablet?

25 A. No, sir.

1 Q. Did you have the discovery at all?

2 A. I didn't have nothing.

3 Q. You went over -- I think you were asked  
4 about a statement -- I think Mr. Burke asked you a  
5 statement about Edward Troup and what occurred with  
6 the Garza or Looney or Castillo murder. Do you  
7 remember that set of questions?

8 A. Yes, sir, I do.

9 Q. And he asked you whether you were trying  
10 to implicate Troup in the Garza murder. Do you  
11 remember those?

12 A. Yes, sir, I do.

13 Q. I'm going to hand you your April 2016 302  
14 that Bryan Acee wrote. So April 2016, this was four  
15 months before you received the tablets in discovery;  
16 right?

17 A. Yes, sir.

18 Q. And in that April 2016 302 does it say  
19 what year and where that conversation took place?

20 A. No, sir. Oh, yeah. It does. Late 2004.

21 Q. Does it also say where it took place?

22 A. At the North facility.

23 Q. All right. May we please see side by side  
24 Government's Exhibit 293 and Government's Exhibit  
25 184? And if we can go to the 2004 time period.



1           So Mr. Clark, this is your offender  
2 physical location history. And you see these  
3 numbers down here at the bottom, 59, 703 and 43795?

4           A.    Yes, sir.

5           MR. BECK: Will the defendants stipulate  
6 that those Bates numbers were disclosed after April  
7 of 2017?

8           A.    Yes, sir.

9           MR. BECK: Not you. But I'm glad you'll  
10 stipulate to that. I think that's a yes, Your  
11 Honor.

12          Q.    And the reason I did that, did you ever  
13 see the offender location history in your tablet?

14          A.    No, sir.

15          Q.    So if we look now at the 2004 time period,  
16 I'll start on the right here because that's a little  
17 bit easier for me. Do you see above that -- do you  
18 see in that time period where Edward Troup was  
19 located in the 2004 time period?

20          A.    Yes, he was located at the North facility.

21          Q.    All right. And then down here at the  
22 bottom in 2009, from March to October, where were  
23 you located?

24          A.    In the North facility, in the same pod, T  
25 pod.

1 Q. And what does it say? I think you went  
2 over this with Mr. Burke, but what does it say in  
3 that -- hold on one second.

4 MR. BECK: Your Honor, I'm going to lead  
5 him through this a little bit.

6 THE COURT: All right.

7 BY MR. BECK:

8 Q. Does it say that --

9 MR. COOPER: Page number?

10 MR. BECK: Page 41977, page 4 of the 2016  
11 report.

12 BY MR. BECK:

13 Q. Does it say that Troup told you that  
14 Looney and Garza almost got away?

15 A. Yes, sir, it does.

16 Q. And Martinez said Looney almost got away,  
17 but Troup closed the door.

18 A. Yes, sir.

19 Q. And then Troup added, "I just closed the  
20 door."

21 A. Yes, sir.

22 Q. And this is a conversation between you and  
23 Mr. Eugene Martinez; right?

24 A. Yes, sir.

25 Q. I'm going to show you your March 2018 --

1 well, and let me ask this. Is that correct? Is  
2 that what happened?

3 A. No, that's not what happened, but it's  
4 correct that we had that conversation.

5 Q. And I'll get to that. So I'm going to  
6 show you your March 20, 2018, 302, pages 68263,  
7 68264. Go ahead and read the bottom of that page  
8 and then on to the next page and look up at me after  
9 you've read that.

10 A. Okay.

11 Q. Okay. And what -- in that report does it  
12 say the conversation that you had with Eugene  
13 Martinez and Troup? What did Troup say in that  
14 conversation?

15 A. In my pod, all I did was the shut the  
16 door.

17 Q. Did Troup joke around with Eugene Martinez  
18 that Looney almost got away from you?

19 A. Yes, he did.

20 Q. So in that conversation -- and this  
21 happened in 2004; is that right?

22 A. Yes, sir, it did.

23 Q. And how many years ago is that, if we're  
24 in 2018?

25 A. 14 years ago.

1 Q. In that conversation when you and Eugene  
2 and Troup were talking, were you talking about  
3 Looney and the 2001 murder?

4 A. Yes, sir, we were.

5 Q. And in 2001, was Castillo also murdered,  
6 Frank Castillo?

7 A. Yes, sir.

8 Q. And so in the time period between -- well,  
9 in April 2016, did you have your tablet then?

10 A. No, sir.

11 Q. And when were you arrested for this case?

12 A. December 3, 2015.

13 Q. And let me show you in your report from  
14 that day -- and I think you've talked a lot about  
15 this report with everyone, but I'm going to show you  
16 the portion you went over with a lot of the  
17 attorneys about the 2001 homicides, page 1576. In  
18 that 2015 interview with police, did you say you  
19 thought one of the victims' names from 2001 was  
20 Frank Martinez?

21 A. Frank Gonzalez.

22 Q. Frank Gonzalez. And that's not Frank  
23 Castillo or Rolando Garza?

24 A. No.

25 Q. So my question is: Since you were

1 arrested in December of 2015, up until today, did  
2 looking at the discovery help refresh your  
3 recollection as to who was involved and what?

4 A. Yeah, somewhat it did.

5 Q. But is it fair, even without those, even  
6 without the discovery in the reports, you still got  
7 the dates and locations of these conversations  
8 right; is that fair?

9 A. Yes, sir, I did.

10 Q. And even today, you've needed your memory  
11 refreshed a little bit from your reports here in  
12 court?

13 A. Yes, sir, I have.

14 Q. 2004 -- well, I think you went over with  
15 Mr. Sindel just now the discussion that you had with  
16 Joe Gallegos in 2004. Do you remember those talks?

17 A. Yes, sir, I do.

18 Q. And I'm going to approach you with page 5  
19 of your 2016 report. On page 5 of that 2016 report,  
20 does it say where and when the conversation that you  
21 had with Joe Gallegos about the Castillo murder  
22 happened?

23 A. Yes, sir, it does.

24 Q. What does it say on that 2016 report?

25 A. We were in the yard together.

1 Q. In what year?

2 A. 2004.

3 Q. At what facility?

4 A. At the North facility.

5 Q. And again, did you have your tablet or any  
6 discovery in April of 2016?

7 A. No, sir.

8 Q. All right. May we please see Exhibit 293  
9 and Exhibit 180 side to side. In the year 2004 time  
10 period, again, do you recognize this as your  
11 offender physical location history and Joe Lawrence  
12 Gallegos' offender physical location history?

13 A. Yes, sir.

14 Q. Did you ever see these on the tablet any  
15 time you had it?

16 A. No, sir.

17 Q. If we look at 2004, for Mr. Joe Gallegos,  
18 from January 2004 until September 2004, where was  
19 he?

20 A. At the North facility.

21 Q. All right. And was he in 2A L pod?

22 A. Yes, sir.

23 Q. All right. And in March until October of  
24 2004, where were you?

25 A. At the North facility.

1 Q. All right. Is that the North facility  
2 where you said in 2016 you had the conversation in  
3 the yard?

4 A. Yes, sir.

5 Q. In December 3, 2015, was that a debrief or  
6 was that a post-arrest interview?

7 A. That was a post-arrest interview.

8 Q. And do you remember talking about your  
9 co-defendants that were indicted in these murders at  
10 that December 3, 2015, interview?

11 A. Somewhat. I can't really recall.

12 Q. Might the report help you?

13 A. Yes, sir, it would.

14 Q. I'm going to give you that 2015 report and  
15 I'm going to approach you, starting at Bates No.  
16 1576 and going on to 1577.

17 A. Thank you.

18 Q. So here in 1576, and while I'm here, does  
19 this report say it was in 2002?

20 A. Yes, sir, it does.

21 Q. And I think when Mr. Sindel asked you how  
22 you knew that, do you remember that Mr. Granberg  
23 pointed out the middle part of this paragraph just  
24 before Mr. Sindel walked up to you?

25 MR. SINDEL: I'll object to the leading

1 question.

2 THE COURT: Overruled.

3 BY MR. BECK:

4 Q. Did Mr. Granberg ask you about Eugene  
5 Martinez and DeLeon telling you about a hit? Mr.  
6 Granberg is Mr. Christopher Chavez's attorney.

7 A. Yes, sir, I believe he did.

8 Q. And at the top of that paragraph that he  
9 showed you, does it say 2002?

10 A. Yes, sir.

11 Q. So at the end of that paragraph on page  
12 1577, does that help refresh your memory whether you  
13 talked about any of the co-defendants that were  
14 charged alongside you in this case?

15 A. Yes, sir, it does.

16 Q. Okay. And then at the bottom of that,  
17 2007, does that talk about the Fred Sanchez  
18 information?

19 A. Yes, sir, it does.

20 Q. And does that help refresh your memory  
21 whether you had any idea there were even  
22 co-defendants in this case?

23 A. Yes, sir, it does.

24 Q. So at this time, in 2015, after your  
25 post-arrest interview, did you have any idea that



1 you even had co-defendants arrested in the same  
2 indictment?

3 A. Not really.

4 Q. Did you actually say for both of those  
5 that no charges had been filed on either the Freddie  
6 Sanchez murder or the Garza and Castillo murder?

7 A. Yes, sir, I did.

8 Q. So did you have any idea that these were  
9 even charged?

10 A. No, sir, I didn't.

11 Q. Did you provide law enforcement a lot of  
12 the same information about what you'd been told by  
13 the defendants and what you did in the Fred Sanchez  
14 murder?

15 A. I gave them a little information, but I  
16 didn't want to open up my -- everything I knew,  
17 because I wasn't sure if I was going to be safe or  
18 if I was going to be protected by law enforcement at  
19 that time.

20 MR. BECK: May I have a moment, Your  
21 Honor?

22 THE COURT: You may.

23 MR. BECK: No further questions, Your  
24 Honor.

25 THE COURT: All right, Mr. Clark.

1 Did you have something, Mr. Burke?

2 MR. BURKE: Your Honor, I do, and I'm  
3 pretty sure that I have some time left.

4 THE COURT: You have a little bit of time.

5 RECROSS-EXAMINATION

6 BY MR. BURKE:

7 Q. So let me see if I can summarize this in a  
8 few questions and your answers. In the April 2016  
9 discussion of the 2001 homicides, you had Edward  
10 involved in Garza; right?

11 A. That's what it said, yes.

12 Q. And then after you reviewed the  
13 Government's paperwork, you realized that wasn't  
14 very valuable to them, so you switched it to  
15 Castillo.

16 A. No, I just started recalling some of the  
17 conversations a little bit more.

18 MR. BURKE: That's all I have.

19 THE COURT: Thank you, Mr. Burke.

20 All right. Anything further, Mr. Sindel?

21 MR. SINDEL: I could ask from here.

22 THE COURT: You can ask from there. I  
23 think we can hear you.

24

25

25 THE COURT: How about from any of the

1 defendants? Anybody?

2 All right. Not hearing any objection, you  
3 are excused from the proceedings. Thank you for  
4 your testimony.

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2 STATE OF NEW MEXICO

3

4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
6 Official Court Reporter for the State of New Mexico,  
7 do hereby certify that the foregoing pages  
8 constitute a true transcript of proceedings had  
9 before the said Court, held in the District of New  
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my  
12 hand on this 22nd day of May, 2018.

13

14

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